



Westwater Resources, Inc.  
6950 S. Potomac Street, Suite 300  
Centennial, Colorado 80112

## NOTICE OF 2023 ANNUAL MEETING OF STOCKHOLDERS

To the stockholders of Westwater Resources, Inc.:

We will hold our 2023 Annual Meeting of Stockholders (the “Annual Meeting”) in virtual format only on **Wednesday, May 10, 2023, at 9:00 a.m., central daylight time at [www.cesonlineservices.com/wwr23\\_vm](http://www.cesonlineservices.com/wwr23_vm)**. To participate in the Annual Meeting, you must pre-register at [www.cesonlineservices.com/wwr23\\_vm](http://www.cesonlineservices.com/wwr23_vm) by no later than 9:00 a.m., central daylight time, on Tuesday, May 9, 2023. At the virtual meeting, the stockholders will consider and vote upon the following matters:

1. Elect as directors the five nominees named in the accompanying proxy statement.
2. Approve an amendment to our 2013 Omnibus Incentive Plan, as amended, to increase the authorized number of shares of common stock available and reserved for issuance under such plan by 1,500,000 shares.
3. Hold an advisory vote to approve of our executive compensation.
4. Hold an advisory vote on the frequency of future advisory votes on our executive compensation.
5. Ratify the appointment of Moss Adams LLP as our independent registered public accountant for 2023.
6. Transact such other business that may properly come before the Annual Meeting or any adjournment or postponement of the Annual Meeting.

The Board has fixed the close of business on Monday, March 13, 2023, as the record date for determining the stockholders entitled to notice of and to vote at the Annual Meeting or at any adjournment or postponement thereof.

We have adopted a virtual-only meeting format for our Annual Meeting to make participation accessible for stockholders from any geographic location and in light of continuing public health concerns regarding the COVID-19 outbreak and its various strains and variants. There is no in-person meeting for you to attend. For more information about the virtual-only meeting format, please see “How do I attend a Virtual Annual Meeting” and “Conducting a Virtual Annual Meeting” on pages 1 and 3 of the attached proxy statement for the Annual Meeting. You may vote electronically at the Annual Meeting if you attend virtually or by proxy. If you elect to vote by proxy, please follow the instructions on the enclosed proxy card — voting by proxy can occur by mail, via the telephone, or over the Internet. Whether or not you plan to participate in the virtual meeting, you are requested to sign and return the enclosed proxy in the enclosed envelope, or to vote your shares over the telephone or over the Internet, so that your shares may be voted in accordance with your wishes and in order that the presence of a quorum may be assured. The giving of such proxy will not affect your right to vote should you later decide to virtually attend the Annual Meeting. **Please date and sign the enclosed proxy and return it promptly in the enclosed envelope or vote over the telephone or Internet. Your vote is important.**

By Order of the Board of Directors,

/s/ JOHN W. LAWRENCE

John W. Lawrence, *Corporate Secretary*

Centennial, Colorado  
March 14, 2023

**Important Notice Regarding the Availability of Proxy Materials  
for the Annual Meeting of Stockholders to be Held on May 10, 2023:**

The Notice of Annual Meeting, Proxy Statement and 2022 Annual Report to Stockholders are available at [www.westwaterresources.net](http://www.westwaterresources.net).

## 2023 PROXY STATEMENT SUMMARY

*This summary highlights selected information contained in this proxy statement, but it does not contain all the information you should consider. We urge you to read the whole proxy statement and our 2022 Annual Report before you vote. This proxy statement is being made available to stockholders on or about Monday, March 20, 2023.*

### 2023 ANNUAL MEETING OF STOCKHOLDERS

**Date and Time:** Wednesday, May 10, 2023, at 9:00 a.m., central daylight time  
**Record Date:** Monday, March 13, 2023  
**Location:** Via a live webcast at [www.cesonlineservices.com/wwr23\\_vm](http://www.cesonlineservices.com/wwr23_vm)  
There will be no physical location for this Annual Meeting

### VOTING MATTERS AND BOARD RECOMMENDATIONS

Matter	Board Recommendation
1. Election of five nominees to our Board of Directors (page 6)	FOR each Director Nominee
2. Increase the authorized number of shares of common stock available and reserved for issuance under the 2013 Omnibus Incentive Plan (page 17)	FOR
3. Advisory vote to approve our executive compensation (page 23)	FOR
4. Advisory vote to approve the frequency of future advisory votes on our executive compensation (page 42)	EVERY ONE YEAR
5. Ratification of the appointment of Moss Adams LLP as our independent registered public accounting firm for 2023 (page 43)	FOR

### DIRECTORS OF THE COMPANY AND 2023 NOMINEES FOR DIRECTOR

Name	Age	Director Since	Audit	Compensation	Committees Nominating and Corporate Governance	Safety and Sustainability
Terence J. Cryan+	60	2017; 2006 – 16				x
Frank Bakker#	57	2023				Ch.
Tracy D. Pagliara*	60	2017	x	x	Ch.	
Karli S. Anderson*	49	2018	x	Ch.		x
Deborah A. Peacock*	66	2020	Ch.	x	x	

- + Mr. Cryan was an Independent Director through February 25, 2022. He became Executive Chairman on February 26, 2022, and as a result he is no longer an Independent Director.
- # Mr. Bakker was appointed to the Board effective January 16, 2023, following the resignation of Chad M. Potter on January 16, 2023. Also on January 16, 2023, Mr. Bakker was elected the Company's President and Chief Executive Officer. Mr. Bakker is not an Independent Director.
- \* Independent Director.

## TABLE OF CONTENTS

	<u>Page</u>
PROXY STATEMENT .....	1
PROPOSAL 1 ELECTION OF DIRECTORS .....	6
DIRECTOR NOMINEES .....	6
CORPORATE GOVERNANCE .....	9
AUDIT COMMITTEE REPORT .....	15
DIRECTOR COMPENSATION .....	16
PROPOSAL 2 AMENDMENT TO OUR 2013 OMNIBUS INCENTIVE PLAN .....	17
SECURITIES AUTHORIZED FOR ISSUANCE UNDER EQUITY COMPENSATION PLANS .....	22
PROPOSAL 3 ADVISORY VOTE TO APPROVE EXECUTIVE COMPENSATION .....	23
COMPENSATION COMMITTEE REPORT .....	36
ADVISORY APPROVAL OF COMPENSATION OF THE NAMED EXECUTIVE OFFICERS .....	41
PROPOSAL 4 ADVISORY VOTE ON THE FREQUENCY OF FUTURE ADVISORY VOTES ON EXECUTIVE COMPENSATION .....	42
PROPOSAL 5 RATIFICATION OF THE APPOINTMENT OF THE INDEPENDENT REGISTERED PUBLIC ACCOUNTANTS .....	43
OWNERSHIP OF WESTWATER COMMON STOCK .....	44
APPENDIX A .....	A-1
APPENDIX B .....	B-1

[This Page Intentionally Left Blank]



Westwater Resources, Inc.  
6950 S. Potomac Street, Suite 300  
Centennial, Colorado 80112

## PROXY STATEMENT 2023 ANNUAL MEETING OF STOCKHOLDERS

This proxy statement is furnished in connection with the solicitation of proxies by Westwater Resources, Inc. (“**Westwater**” or the “**Company**”) on behalf of its Board of Directors for the 2023 Annual Meeting of Stockholders (“**Annual Meeting**”).

### Questions and Answers About the Annual Meeting

**Q: Why am I receiving this proxy statement?**

A: You are receiving this proxy statement because you have been identified as a holder of the Company’s common stock as of the close of business on Monday, March 13, 2023, the record date for the 2023 Annual Meeting of Stockholders (the “**Record Date**”).

**Q: When is the Annual Meeting?**

A: The Annual Meeting will take place on Wednesday, May 10, 2023, at 9:00 a.m., central daylight time

**Q: How do I attend a Virtual Annual Meeting?**

A: To make participation accessible for stockholders from any geographic location and in light of the continuing public health concerns regarding the COVID-19 outbreak and its various strains and variants, we are holding the Annual Meeting in a virtual only meeting format. You will not be able to attend the Annual Meeting at a physical location. If you are a registered stockholder or beneficial owner of common stock holding shares at the close of business on the Record Date, you may attend the Annual Meeting by visiting [www.cesonlineservices.com/wwr23\\_vm](http://www.cesonlineservices.com/wwr23_vm) at least 24 hours before the Annual Meeting begins and pre-registering by entering the control number found on your proxy card, voter instruction form, or Notice, as applicable. If you do not pre-register or you are not a stockholder, you will not be able to attend the meeting. You may log into [www.cesonlineservices.com/wwr23\\_vm](http://www.cesonlineservices.com/wwr23_vm), beginning at 8:30 a.m. central daylight time on Wednesday, May 10, 2023. The Annual Meeting will begin promptly at 9:00 a.m. central daylight time on May 10, 2023. If you experience any technical difficulties during the Annual Meeting, a toll-free number will be available for assistance and will be located in the reminder email message you will receive prior to the meeting.

**Q: What are holders of common stock being asked to vote on?**

A: Holders of common stock are being asked to:

- Proposal 1: Elect as directors the five nominees named in this proxy statement.
- Proposal 2: Approve an amendment to the Westwater Resources, Inc. 2013 Omnibus Incentive Plan, as amended, to increase the authorized number of shares of common stock available and reserved for issuance under such plan by 1,500,000 shares.
- Proposal 3: Approve, on an advisory basis, our executive compensation.
- Proposal 4: Approve, on an advisory basis, the frequency of future advisory votes on our executive compensation.
- Proposal 5: Ratify the appointment of Moss Adams LLP as our independent registered public accountant for 2023.

In addition, we may consider such other business that may properly come before the Annual Meeting or any adjournment or postponement of the Annual Meeting.

**Q: Why is the Company seeking an amendment to the 2013 Omnibus Incentive Plan?**

A: This amendment will allow the Company to grant stock-based awards to continue to align compensation with stockholder value.

**Q: Who is eligible to vote at the Annual Meeting?**

A: Holders of common stock as of the close of business on the Record Date, or their duly authorized proxy holders, are eligible to vote. As of the close of business on the Record Date, there were 49,999,759 shares of common stock outstanding and entitled to vote at the Annual Meeting.

If you are the beneficial owner of shares held in “street name” (that is, if you hold your shares through a broker, bank or other holder of record), you need to direct that organization to vote those shares on your behalf or obtain an authorization from them and vote the shares for yourself at the meeting.

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

A: Holders of common stock are entitled to cast one vote on each proposal properly brought before the Annual Meeting for each share of common stock that such holder owned at the close of business on the Record Date.

As of March 13, 2023, directors and executive officers of the Company as a group beneficially owned and were entitled to vote 791,059 shares of common stock, representing approximately 1.6% of the shares of common stock entitled to vote at the Annual Meeting. All of the directors and executive officers of the Company who are entitled to vote at the Annual Meeting have advised the Company that they intend to vote their shares of common stock in favor of each of the proposals, although such persons have not entered into agreements obligating them to do so.

**Q: What vote is required to approve each of the proposals?**

Assuming a quorum is present:

- Election of Directors: For Proposal 1, directors are elected by a plurality of the votes cast, and the five nominees for director who receive the most **FOR** votes at the Annual Meeting in person or by proxy will be elected to the Board. Abstentions, “broker non-votes” and shares that are voted “withhold” in regard to a director nominee will not be counted toward such nominee’s election and will have no effect on the outcome of the election.
- Advisory Approval of the Frequency for Future Advisory Votes on Our Executive Compensation. For Proposal No. 4, the alternative — that is, every one year, every two years, or every three years — receiving the greatest number of votes will be the frequency that stockholders approve. Abstentions and “broker non-votes” will not affect the outcome of the vote.
- All Other Proposals: For the other proposals and any other business that may properly come before the Annual Meeting or any adjournment or postponement of the Annual Meeting, the affirmative vote of a majority of the votes cast on such proposals or other business at the Annual Meeting in person or by proxy is required for approval. Abstentions and “broker non-votes” are not treated as cast either for or against any such proposals or other business, and therefore will not affect the outcome of the vote.

**Q: What constitutes a quorum for the Annual Meeting?**

A: The presence in person or by proxy of the holders of one-third of the shares issued and outstanding and entitled to be cast at the Annual Meeting constitutes a quorum under the Company’s bylaws. The Company will treat shares of common stock represented by a properly signed and returned proxy, including abstentions and broker non-votes, as present at the Annual Meeting for the purposes of determining the existence of a quorum. If a quorum is not present, the holders of record of a majority of such shares present and entitled to vote may adjourn the Annual Meeting until a quorum is obtained.

**Q: Conducting a Virtual Annual Meeting**

A: The Annual Meeting will be conducted in a virtual-only meeting format. Only stockholders who pre-register for the Annual Meeting by entering the control number found on their proxy card, voter instruction form, or Notice, as applicable, may vote at the Annual Meeting.

**Q: How does the Board recommend that I vote?**

A: The Board unanimously recommends that you vote “**FOR**” each director nominee (Proposal 1), for “**ONE YEAR**” for the frequency for future advisory votes on our executive compensation (Proposal 4), and “**FOR**” each of the other proposals (Proposals 2, 3 and 5).

**Q: What happens if I don’t vote?**

A: If you are the beneficial owner of shares held in “street name” (that is, if you hold your shares through a broker, bank or other holder of record), the broker, bank or other holder of record who holds your shares of common stock will have authority to vote on “routine” proposals, including the ratification of the appointment of Moss Adams LLP as our independent registered public accountants for 2023 (Proposal 5).

However, banks, brokerage firms and other nominees are precluded from exercising their voting discretion with respect to non-routine matters, including the election of directors (Proposal 1), the approval of the amendments to the Westwater Resources, Inc. 2013 Omnibus Incentive Plan (Proposal 2), the advisory approval of our executive compensation (Proposal 3), and the advisory vote on the frequency of future advisory votes on our executive compensation (Proposal 4), if you have not submitted voting instructions to the broker, bank or other nominee. As a result, absent specific instructions from the beneficial owner of such shares, brokers, banks or other holders of record are not empowered to vote such shares on non-routine matters, which we refer to as a “broker non-vote.” The effect of not instructing your broker, bank or other holder of record regarding how you wish your shares to be voted will **NOT** be counted as “**FOR**” or “**AGAINST**” for these non-routine matters, and will **NOT** have an effect on Proposals 1, 2, 3, or 4.

**No matter how many or few shares you own you are encouraged to vote and have your voice heard.**

**Q: What do I need to do now?**

A: After carefully reading and considering the information contained in this proxy statement, please vote promptly by calling the toll-free number listed on your proxy card, accessing the Internet website listed on your proxy card or by completing, signing and dating your proxy card and returning it by mail in the enclosed postage-paid envelope.

If you hold your stock in “street name” through a bank or broker, you must direct your bank or broker to vote in accordance with the instructions you have received from your bank or broker. Submitting your proxy by telephone, Internet or mail or directing your bank or broker to vote your shares will ensure that your shares are represented and voted at the Annual Meeting. For information on how to vote your shares at a virtual Annual Meeting, see “*How do I attend a Virtual Annual Meeting*,” and “*Conducting a Virtual Annual Meeting*” in the Questions and Answers portion of this Proxy Statement.

**Q: How do I vote?**

A: Stockholders of record may vote, either in person or by proxy, through the following methods:

- Via the Internet: You may vote by proxy via the Internet by following the instructions on the proxy card. You will be asked to provide the company number and control number from the enclosed proxy card, voter instruction form, or Notice, as applicable.
- By Telephone: You may vote by proxy by calling the toll-free number found on the proxy card. You will be asked to provide the company number and control number from the enclosed proxy card, voter instruction form, or Notice, as applicable.

- **By Mail:** You may vote by proxy by filling out the proxy card and sending it back in the envelope provided.

If you are a beneficial owner of shares held in “street name” (that is, if you hold your shares through a broker, bank or other holder of record), you can vote in one of three ways:

- **Via the Internet:** You may vote by proxy via the Internet by following the instructions on the voting instruction form accompanying the proxy materials.
- **By Telephone:** You may vote by proxy by calling the toll-free number found on the voting instruction form.
- **By Mail:** You may vote by proxy by filling out the voting instruction form and sending it back in the envelope provided.

**Q: How will my proxy be voted?**

**A:** All shares of common stock represented at the Annual Meeting by properly executed proxy cards, voted over the telephone or voted over the Internet will be voted in accordance with the instructions indicated on those proxies. If you hold shares in your name and sign and return a proxy card or submit a proxy by telephone or over the Internet without giving specific voting instructions, your shares will be voted “**FOR**” each director nominee (Proposal 1), for “**ONE YEAR**” for the frequency for future advisory votes on our executive compensation (Proposal 4), and “**FOR**” each of the other proposals (Proposals 2, 3 and 5).

**Q: If my broker holds my shares in “street name,” will my broker automatically vote my shares for me?**

**A:** **No. If you do not provide your broker with instructions on how to vote your “street name” shares, your broker will not be permitted to vote on non-routine matters on your behalf.** You should therefore be sure to provide your broker with instructions on how to vote your shares, following the directions your broker provides to you. Please check the voting form used by your broker to see if the broker offers telephone or Internet voting.

**All stockholders are urged to have their voices heard on these important matters — please vote your shares today.**

**Q: Can I attend the virtual Annual Meeting and vote my shares in person?**

**A:** Yes. All stockholders, including stockholders of record and stockholders who hold their shares through banks, brokers, custodians or any other record holder, are invited to attend the virtual Annual Meeting. Holders of record of common stock as of the record date can vote in person at the virtual Annual Meeting by visiting [www.cesonloneservices.com/wwr23\\_ym](http://www.cesonloneservices.com/wwr23_ym) at least 24 hours before the Annual Meeting and pre-registering by entering the control number found on your proxy card, voter instruction form, or Notice, as applicable. If you are not a stockholder of record, you must obtain a valid legal proxy, executed in your favor, from the record holder of your shares, such as a bank, broker, custodian or other record holder, to be able to vote in person at the virtual Annual Meeting.

**Q: What does it mean if I receive more than one set of materials?**

**A:** This means you own shares of the Company that are registered under different names. For example, you may own some shares directly as a stockholder of record and other shares through a broker, or you may own shares through more than one broker. In these situations, you will receive multiple sets of proxy materials. You must complete, sign, date and return all of the proxy cards or follow the instructions for any alternative voting procedures on each of the proxy cards you receive in order to vote all of the shares you own. Each proxy card you receive will come with its own postage-paid return envelope; if you vote by mail, make sure you return each proxy card in the return envelope that accompanied that proxy card.



**Q: What can I do if I want to change or revoke my vote?**

A: You have the right to revoke a proxy, whether delivered over the Internet, by telephone or by mail, at any time before it is exercised, by voting again at a later date through any of the methods available to you, by attending the virtual Annual Meeting and voting in person, or if you are a holder of record, by giving written notice of revocation to the Company prior to the time the meeting begins. Written notice of revocation should be mailed to: Westwater Resources, Inc., Attention: Corporate Secretary, 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112.

If you hold your shares in “street name,” and wish to change or revoke your vote, please refer to the information on the voting instruction form included with these materials and forwarded to you by your bank, broker, custodian or other record holder to see your voting options.

**Q: Whom should I call if I have questions about the Annual Meeting?**

A: You should contact Christopher Rice, our proxy solicitor at Morrow Sodali, at 800 662-5200 or at [WWR@info.morrowsodali.com](mailto:WWR@info.morrowsodali.com), or contact John W. Lawrence, our Corporate Secretary, at 303-531-0516 or at [john.lawrence@wwr.net](mailto:john.lawrence@wwr.net).

## PROPOSAL 1

### ELECTION OF DIRECTORS

The Board has nominated five directors for election at the Annual Meeting. The directors will hold office from election until the next Annual Meeting of Stockholders and until their successors are elected and qualified or until their earlier death, resignation, or removal. All of the nominees are currently directors. Terence J. Cryan, Tracy D. Pagliara, Karli S. Anderson, and Deborah A. Peacock were elected by the stockholders at the 2022 Annual Meeting. Mr. Bakker was appointed to the Board effective January 16, 2023, following the resignation of Chad M. Potter on January 16, 2023.

If your proxy is properly completed and received in time for the Annual Meeting, and if your proxy does not indicate otherwise, the represented shares will be voted “**FOR**” each of the directors presented below. We have no reason to believe that any of the nominees for director will be unable to serve if elected. However, if any of these nominees becomes unavailable, the persons named in the proxy intend to vote for any alternate designated by the current Board. Proxies cannot be voted for a greater number of persons than the nominees named.

The paragraphs below describe each nominee’s individual management and leadership experience for at least the last five years, which the Company believes, in the aggregate, creates a well-rounded and capable Board of Directors and contributes to the overall effectiveness of our Board and each of its Committees. As a result of the Company’s continuing efforts to diversify the Board of Directors, two-thirds of the independent Directors are female. Each nominee is an incumbent director, with Mr. Bakker having joined the Board effective January 16, 2023. Each nominee consents to being named herein and to serve on the Board if elected. There are no family relationships among any director, executive officer or any person nominated or chosen by us to become a director.

Following each nominee’s biography below, we have highlighted certain notable skills and qualifications that contributed to his or her selection as a member of our Board of Directors.

<u>Name</u>	<u>Age</u>	<u>Director Since</u>	<u>Primary Occupation</u>
Terence J. Cryan	60	2017; 2006 – 2016	Chairman of the Board, Westwater Resources, Inc. (Executive Chairman since February 26, 2022) and Managing Director, MACCO Restructuring Group, LLC
Frank Bakker	57	2022	President and Chief Executive Officer (CEO), Westwater Resources, Inc.
Tracy D. Pagliara	60	2017	President and CEO, Williams Industrial Services Group, Inc.
Karli S. Anderson	49	2018	Executive Vice President, Chief People and ESG Officer, and Head of Communications, Summit Materials, Inc.
Deborah A. Peacock	66	2020	President, CEO and Managing Director, Peacock Law P.C.

**THE BOARD UNANIMOUSLY RECOMMENDS THAT STOCKHOLDERS VOTE “FOR” THE ELECTION OF THE NOMINEES NAMED BELOW.**

### DIRECTOR NOMINEES

#### **Terence J. Cryan**

Director, Executive Chairman of the Board and Member of the Safety and Sustainability Committee

Terence J. Cryan rejoined the Westwater Resources Board as its Chairman in August 2017, and he became Executive Chairman on February 26, 2022. He previously served as a director from October 2006 to March 2016, served as Westwater’s Interim President and Chief Executive Officer from September 2012 to

March 2013, and served as Chairman of the Board from June 2014 through March 2016. Mr. Cryan is also Chairman of the Board of Ocean Power Technologies, Inc. (NYSE American: OPTT) where he has served as a director since October 2012.

Mr. Cryan currently serves as a Managing Director of MACCO Restructuring Group, LLC, which provides qualified interim leadership and advice to stakeholders across a broad spectrum of business sectors. Mr. Cryan served as President and Chief Executive Officer of Williams Industrial Services Group (f/k/a Global Power Equipment Group, Inc.), a publicly traded provider of construction and maintenance services to power, energy and industrial customers, from March 2015 until July 2017. Previously, Mr. Cryan served as Co-founder and Managing Director of Concert Energy Partners, an investment and private equity firm based in New York City from 2001 until 2015. Prior to that, Mr. Cryan was a Senior Managing Director in the Investment Banking Division at Bear Stearns. Additionally, Mr. Cryan was a Managing Director, Head of the Energy and Natural Resources Group and member of the Investment Banking Operating Committee at Paine Webber which he joined following its acquisition of Kidder, Peabody in 1994. From 2007 to 2010, Mr. Cryan also served as President and Chief Executive Officer of Medical Acoustics LLC.

Mr. Cryan served as a Director on the Board of Global Power Equipment Group Inc. from January 2008 until July 2017. Mr. Cryan was previously a Director on the Board of Superior Drilling Products, Inc. from June 2014 to December 2016. He was also previously a Director of The Providence Service Corporation from May 2009 to May 2011, and Gryphon Gold Corporation from August 2009 to December 2012. Mr. Cryan has also been an adjunct professor at the Metropolitan College of New York Graduate School of Business. Mr. Cryan received a Master of Science degree in Economics from the London School of Economics in 1984 and a Bachelor of Arts degree in Economics from Tufts University in 1983. Mr. Cryan is a Board Leadership Fellow and member of the National Association of Corporate Directors.

Mr. Cryan's extensive financial industry experience provides him with a wealth of knowledge in dealing with financial, accounting and regulatory matters. Mr. Cryan's prior professional experience also permits him to provide valuable advice to the Company with respect to potential capital raising and merger and acquisition transactions, and his prior Board service and service as Interim President and Chief Executive Officer of the Company provides him a deep understanding of the operations of the Company.

#### **Frank Bakker**

Director, President and Chief Executive Officer  
Chairman of the Safety and Sustainability Committee

Frank Bakker was elected as President and Chief Executive Officer and was appointed a director on January 16, 2023. Mr. Bakker served as Vice President and General Manager — Alabama Graphite Products from October 2022 until January 2023. Mr. Bakker has over 30 years of experience in engineering, project management, operations, and general management. Prior to joining the Company, from 2017 to 2021, he was responsible for engineering, project management, and plant operations at several methanol plants in Houston, Texas and in Charleston, West Virginia, including serving as the Chief Executive Officer for US Methanol LLC, as the Project Director for BD Energy, and as the Project Manager for Alivia AOC. From 2013 to 2017, Mr. Bakker served as President & Chief Executive Officer, and earlier as General Manager, in the ammonia and methanol business for OCI Partners LP in Beaumont, Texas. Mr. Bakker began his career at DSM in the Netherlands in 1989, working in various increasing management roles in the ammonia, engineering plastics and resins production businesses, eventually serving as the Manufacturing Director and Site Manager. Mr. Bakker received a Master's Degree in Mechanical Engineering from the University of Twente Netherlands, and a Master's in Business Administration from the University of Massachusetts.

Mr. Bakker has the necessary experience and education to serve the Company well through the construction and operation of the Kellyton advanced graphite processing plant.

#### **Tracy D. Pagliara**

Director, Chairman of the Nominating and Corporate Governance Committee and Member of the Audit Committee and the Compensation Committee

Tracy D. Pagliara has served as a director since July 2017. Since April 2018, Mr. Pagliara has been serving as CEO of Williams Industrial Services Group Inc. (f/k/a Global Power Equipment Group, Inc.) (NYSE American: WLMS), a publicly traded provider of construction and maintenance services to power, energy

and industrial customers (“Williams”). From July 2017 to April 2018, Mr. Pagliara served as Co-President and Co-CEO of Williams. Mr. Pagliara joined Williams in April 2010 as General Counsel, Secretary and Vice President, Business Development and served in multiple other positions of increasing responsibility, including Senior Vice President, Administration, prior to his appointment as Co-President and Co-CEO in July 2017. Prior to joining Williams in April 2010, Mr. Pagliara served as the Chief Legal Officer of Gardner Denver, Inc., a leading global manufacturer of highly engineered compressors, blowers, pumps, and other fluid transfer equipment, from August 2000 through August 2008. He also had responsibility for other roles during his tenure with Gardner Denver, including Executive Vice President of Administration, Chief Compliance Officer, and Corporate Secretary. Prior to joining Gardner Denver, Mr. Pagliara held positions of increasing responsibility in the legal departments of Verizon Communications/GTE Corporation from August 1996 to August 2000 and Kellwood Company from May 1993 to August 1996, ultimately serving in the role of Assistant General Counsel for each company. Mr. Pagliara has a B.S. in Accounting and a J.D. from the University of Illinois. He is a member of the Missouri and Illinois State Bars and he is a Certified Public Accountant.

Mr. Pagliara brings to the Board extensive experience advising public companies and companies in the energy industry, in addition to companies with similar capital needs to Westwater. Mr. Pagliara’s background in accounting will also permit him to contribute substantially as a member of the Audit Committee.

**Karli S. Anderson**

Director, Chair of the Compensation Committee and Member of the Audit Committee and the Safety and Sustainability Committee

Karli S. Anderson is Executive Vice President, Chief People and Environmental, Safety, and Governance (ESG) Officer, and Head of Communications at Summit Materials, Inc. (NYSE: SUM), a leading vertically-integrated materials company with operations throughout North America. She previously served as Vice President, Investor Relations for Royal Gold, Inc., a precious metals stream and royalty company engaged in the acquisition and management of precious metal streams, royalties, and similar production-based interests with over 190 properties on six continents. Previously, from 2010 to 2013, Ms. Anderson was a Senior Director of Investor Relations for Newmont Mining Corporation, one of the world’s largest gold producers. Ms. Anderson’s 20 years of capital markets experience includes stockholder engagement related to ESG factors with both equity and fixed income investors as well as proxy advisory firms. From 2012 to 2018, Ms. Anderson served as Chair of the Board of the Denver Gold Group, an organization representing seven-eighths of the world’s publicly traded gold and silver companies. Ms. Anderson holds a Bachelor’s Degree in telecommunications from Ohio University and a Masters of Business Administration (finance) from the Wharton School at the University of Pennsylvania. Ms. Anderson is a Governance Fellow and member of the National Association of Corporate Directors and Women Corporate Directors.

Ms. Anderson’s insights and guidance, her wealth of experience in the mining industry leading an environmental and safety function, as well as her advocacy towards better corporate governance, will continue to be critical assets to Westwater.

**Deborah A. Peacock**

Director, Chair of the Audit Committee and Member of the Compensation Committee and the Nominating and Corporate Governance Committee

Ms. Peacock is an attorney licensed to practice law in New Mexico, Colorado, and New York, and she is a Registered Patent Attorney. Ms. Peacock is also a Registered Professional Engineer in Colorado and New Mexico. Ms. Peacock is the President, CEO, Managing Director, and owner of Peacock Law P.C. located in Albuquerque, New Mexico, which she founded in April 1995.

Since 2017, Ms. Peacock has served on the Board of Directors of New Mexico Gas Company, and from 2018 to February 2023, she served on the Board of Directors of Emera Technologies, LLC — both of which are wholly owned subsidiaries of Emera, Inc. (TSE: EMA). From 2011 until March 2023, Ms. Peacock served on the Board of Regents of the New Mexico Institute of Mining & Technology and the last six years as the Chair. Ms. Peacock served on the New Mexico Mining Safety Board from 2015 until 2021. From 2017 to 2022, Ms. Peacock served on the Board of Directors of THEMAC Resources Group, Ltd. (TSXV: MAC), (chaired its Corporate Governance Committee and was a member of its Audit Committee), as well as its wholly-owned

subsidiary New Mexico Copper Corp. from 2014 to 2022. In addition to her corporate Board service, Ms. Peacock previously served on the Board of The Georgia O’Keeffe Museum (Santa Fe, New Mexico) and both its Audit and Executive Committees, and was its Chair of its Audit Committee. She previously served on the New Mexico Environmental Improvement Board and as Chair for four years. In 2014, Ms. Peacock co-founded the Greater New Mexico Chapter of Women Corporate Directors. Ms. Peacock served on the Board of New Mexico Angels from 2005 to 2022.

Ms. Peacock obtained her Bachelors of Science degree (B.S.) in Metallurgical Engineering from the Colorado School of Mines, and her Law Degree (J.D.) from Harvard Law School. She is also a Governance Fellow with the National Association of Corporate Directors. Ms. Peacock brings to the Board extensive experience in or with corporate governance, financial oversight, ESG, a wide variety of business and corporate legal matters including intellectual property and mergers & acquisitions, and has knowledge of mining and metallurgy industries, environmental regulations, permitting, and social license.

## **CORPORATE GOVERNANCE**

### **Board of Directors**

The Company’s business and affairs are overseen by the Board pursuant to Delaware General Corporation Law and the Company’s Amended and Restated Bylaws (the “**Bylaws**”). Members of the Board are kept informed of the Company’s business through discussions with the Chairman and key members of management, by reviewing materials provided to them and by participating in Board and Committee meetings. All members of the Board are elected annually by the stockholders.

Regular attendance at Board meetings and the Annual Meeting is expected of each director. Our Board held 10 meetings during 2022. All directors that served on the Board in 2022 attended all Board and all Committee meetings in 2022. The independent directors met in executive session at several of the Board meetings held in 2022. All of the directors then-serving attended the 2022 Annual Meeting of Stockholders.

### **Board Leadership Structure**

The Company’s governing documents allow the roles of Chairman (or Executive Chairman) and Chief Executive Officer to be filled by the same or different individuals. This approach allows the Board flexibility to evaluate and determine, on an annual basis, whether the two roles should be separate or combined based upon the Company’s needs, the Board’s assessment of the Company’s leadership from time to time, and long-term interests of our shareholders. Based on these considerations, currently Mr. Cryan serves as Executive Chairman and Mr. Bakker serves as Chief Executive Officer. Mr. Cryan is best situated to serve as Executive Chairman given his long tenure with the Company and his extensive experience involving board leadership, corporate strategy, succession planning and talent acquisition as well as dealing with the financial markets and institutional investors. Mr. Bakker is best situated to serve as Chief Executive Officer given his experience in engineering, project management, construction and operations, and general corporate management.

### **Determination of 2023 Director Nominees**

Each of the director nominees at the 2023 Annual Meeting are existing directors of the Company. Mr. Cryan, Mr. Pagliara, Ms. Anderson, and Ms. Peacock were elected by the stockholders at the 2022 Annual Meeting. Mr. Bakker was appointed to the Board effective January 16, 2023, following the resignation of Chad M. Potter on January 16, 2023.

### **Director Independence**

The Board annually reviews all relationships that directors have with the Company to affirmatively determine whether the directors are “independent” under NYSE American listing standards. The Board has determined that each of Mr. Pagliara, Ms. Anderson, and Ms. Peacock are “independent” and as a result, each existing member of the Audit Committee, the Compensation Committee, and the Nominating and Corporate Governance Committee is “independent.” Mr. Cryan was determined to be an “independent” director until February 26, 2022, when he began serving as Executive Chairman. In arriving at the foregoing independence determination, the Board considered transactions and relationships between each director or

any member of her or his immediate family and the Company, its subsidiaries, or its affiliates. The Board has determined that the directors designated as “independent” have no relationship with the Company that would interfere with the exercise of their independent judgment in carrying out the responsibilities of a director.

### Communications with the Board

Interested parties, including the Company’s stockholders, desiring to communicate with the Board members, including its non-management directors as a group, may do so by mailing a request to the Corporate Secretary of Westwater Resources, Inc. at 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112. Pursuant to the instruction of the Company’s non-management directors, the Corporate Secretary will review inquiries and if they are relevant to, and consistent with our operations, policies and procedures, they will be forwarded to the director or directors to whom they are addressed. Inquiries not forwarded will be retained by the Company and will be made available to any director upon request.

### Committees of the Board

The Board has established four standing committees: an Audit Committee, a Compensation Committee, a Nominating and Corporate Governance Committee, and a Safety and Sustainability Committee. The table below indicates the members of each standing Board Committee as of March 13, 2023.

Board Member	Audit	Compensation	Nominating and Corporate Governance	Safety and Sustainability
Terence J. Cryan+ . . . . .				x
Frank Bakker# . . . . .				Ch.
Tracy D. Pagliara* . . . . .	x	x	Ch.	
Karli S. Anderson* . . . . .	x	Ch.		x
Deborah A. Peacock* . . . . .	Ch.	x	x	

+ Mr. Cryan was an Independent Director through February 25, 2022. He became Executive Chairman on February 26, 2022, and as a result he is no longer an Independent Director.

# Mr. Bakker was appointed to the Board effective January 16, 2023, following the resignation of Chad M. Potter on January 16, 2023. Also on January 16, 2023, Mr. Bakker was elected the Company’s President and Chief Executive Officer. Mr. Bakker is not an Independent Director.

\* Independent Director.

Each of the Company’s Audit Committee, Compensation Committee, Nominating and Corporate Governance Committee and Safety and Sustainability Committee operates under a charter, adopted by the Board, which is available on the Company’s website at [www.westwaterresources.net](http://www.westwaterresources.net) under “Corporate Governance,” or in print, without charge, to any stockholder who sends a request to the Corporate Secretary of Westwater Resources, Inc. at 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112. The functions performed by each of the standing Committees are briefly described below. The Company’s website address is provided as an inactive textual reference only. The information provided on the website is not incorporated by reference into, and does not form a part of, this proxy statement.

### The Audit Committee

We have a separately designated Audit Committee composed solely of independent directors. The Audit Committee held four meetings in 2022.

The Audit Committee’s primary responsibilities are to:

- assist the Board in discharging its responsibilities with respect to the accounting policies, internal controls and financial reporting of the Company;
- monitor compliance with applicable laws and regulations, standards and ethical business conduct, and the systems of internal controls;

- assist the Board in its oversight of the qualifications, independence and performance of the registered public accounting firm engaged to be the independent auditor of the Company; and
- prepare the Audit Committee report required to be included in the Company's proxy statements.

The Board has determined that Ms. Peacock, the Chair of the Audit Committee, and Mr. Pagliara, a member of the Audit Committee, each satisfies the criteria adopted by the Securities and Exchange Commission ("SEC") to serve as an "audit committee financial expert." In addition, the Board has determined that each of Ms. Peacock, Mr. Pagliara, and Ms. Anderson, constituting all current members of the Audit Committee, is an independent director pursuant to the requirements under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and NYSE American listing standards and is able to read and understand the Company's financial statements.

### **The Compensation Committee**

The Compensation Committee held three meetings in 2022, and also engaged in a number of informal discussions. The Compensation Committee is responsible for assisting the Board in developing the Company's compensation philosophy, setting the compensation of the Company's executive officers, and administering and implementing the Company's incentive compensation plans and equity-based plans. The Compensation Committee's duties and responsibilities are to:

- review and approve corporate goals and objectives relevant to the compensation of the Company's executive officers;
- evaluate the performance of the Company's executive officers in light of such goals and objectives; and
- determine and approve executive officer compensation based on such evaluation.

The Compensation Committee also reviews and discusses the Compensation Discussion and Analysis appearing in the Company's proxy statements with management, and based on such review and discussions, has recommended to the Board that the Compensation Discussion and Analysis set forth herein be included in this proxy statement.

Under the Compensation Committee Charter, the Compensation Committee has the authority to retain compensation consultants. Although none were used in 2022, the Compensation Committee has previously engaged compensation consultants. In the Spring of 2021, NFP Compensation Consulting (f/k/a Longnecker and Associates) was engaged to review the Company's compensation program for named executive officers. In March 2018, Meridian Compensation Partners was engaged to review our Long-Term Incentive program to ensure it was competitive as an incentive and retention program. The Compensation Committee also has the authority to obtain advice and assistance from executives, internal or external legal, accounting, or other advisors as it determines necessary to carry out its duties.

The Compensation Committee may delegate its authority to determine the amount and form of compensation paid to non-executive employees and consultants to officers and other appropriate supervisory personnel. It may also delegate its authority (other than its authority to determine the compensation of the Chief Executive Officer) to a subcommittee of the Compensation Committee. Finally, to the extent permitted by applicable law, the Compensation Committee may delegate to one or more officers (or other appropriate personnel) the authority to recommend stock options and other stock awards for employees who are not executive officers or members of the Board.

The Board has determined that each of Ms. Peacock, Mr. Pagliara, and Ms. Anderson, constituting all current members of the Compensation Committee, is an independent director pursuant to the requirements under the Exchange Act and NYSE American listing standards.

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

The Nominating and Corporate Governance Committee held one meeting in 2022. The Nominating and Corporate Governance Committee's duties and responsibilities are to:

- recommend to the Board director nominees for the annual meeting of stockholders;
- recommend and approve compensation for the independent directors;
- identify and recommend candidates to fill vacancies occurring between annual stockholder meetings; and
- oversee all aspects of corporate governance of the Company.

The Nominating and Corporate Governance Committee of the Board identifies director candidates based on input provided by a number of sources, including members of the Nominating and Corporate Governance Committee, other directors, our stockholders, members of management and third parties. The Nominating and Corporate Governance Committee does not distinguish between nominees recommended by our stockholders and those recommended by other parties. Any stockholder recommendation must be sent to the Corporate Secretary of Westwater Resources, Inc. at 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112, and must include detailed background information regarding the suggested candidate that demonstrates how the individual meets the Board membership criteria discussed below. The Nominating and Corporate Governance Committee also has the authority to consult with or retain advisors or search firms to assist in the identification of qualified director candidates.

As part of the identification process, the Nominating and Corporate Governance Committee takes into account each candidate's business and professional skills, experience serving in management or on the board of directors of companies similar to the Company, financial literacy, independence, personal integrity and judgment. In conducting this assessment, the Nominating and Corporate Governance Committee will, in connection with its assessment and recommendation of candidates for director, consider diversity (including, but not limited to, gender, race, ethnicity, age, experience and skills) and such other factors as it deems appropriate given the then-current and anticipated future needs of the Board and the Company, and to maintain a balance of perspectives, qualifications, qualities and skills on the Board. The Board does not have a formal diversity policy for directors. However, the Board is committed to an inclusive membership. Although the Nominating and Corporate Governance Committee may seek candidates that have different qualities and experiences at different times in order to maximize the aggregate experience, qualities and strengths of the Board members, nominees for each election or appointment of directors will be evaluated using a substantially similar process. Incumbent directors who are being considered for re-nomination are re-evaluated both on their performance as directors and their continued ability to meet the required qualifications.

The Nominating and Corporate Governance Committee also regularly reviews and sets the terms of compensation for each member of the Board and its various Committees. Such compensation decisions are made annually immediately following the annual general meeting of shareholders. Together with the Board, the Nominating and Corporate Governance Committee also routinely considers executive officer succession planning, identification, and election. Generally, the Company's named executive officers are elected by the Board annually immediately following the annual general meeting of shareholders. Finally, as part of its responsibilities, the Nominating and Corporate Governance Committee oversees matters of corporate governance.

The Board has determined that each of Mr. Pagliara and Ms. Peacock, constituting all current members of the Nominating and Corporate Governance Committee, is an independent director pursuant to the requirements under the Exchange Act and NYSE American listing standards.



## **The Safety and Sustainability Committee**

The Safety and Sustainability Committee held two meetings in 2022. The Safety and Sustainability Committee's primary responsibility is for the oversight of the management of health, safety, loss prevention, operational security, sustainable development, environmental management and affairs, community relations, human rights, government relations and communications issues relating to the Company, including compliance with laws and regulations. The Committee's primary purposes are to:

- provide advice, counsel, and recommendations to management on:
  - health, safety, loss prevention issues and operational security; and
  - issues relating to sustainable development, environmental management and affairs, community relations, human rights, government relations and communications; and
- assist the Board in its oversight of:
  - health, safety, loss prevention and operational security issues relating to the Company;
  - sustainable development, environmental affairs, relations with communities and civic societies, government relations, communications issues and human rights relating to the Company;
  - the Company's compliance with regulations and policies that provide processes, procedures, and standards to follow in accomplishing the Company's goals and objectives relating to:
    - health, safety, loss prevention issues and operational security; and
    - sustainable development, environmental management affairs, community relations, human rights, government relations and communications issues; and
  - management of risks related thereto.
- monitor the Company's implementation of its Diversity, Equity, Inclusion and Accessibility (DEIA) policy, including establishing short-term and long-term goals, and regularly reviewing, updating and modifying them as appropriate.

## **Code of Ethics**

The Company has adopted a Code of Ethics for Senior Financial Officers, which is applicable to the Company's chairman (or executive chairman), chief executive officer, chief financial officer, chief accounting officer, general counsel, controller, and treasurer, and a Code of Business Conduct and Ethics, which is applicable to all directors, officers, and employees. Copies of the codes are available on the Company's website at [www.westwaterresources.net](http://www.westwaterresources.net) under "Corporate Governance" or in print, without charge, to any stockholder who sends a request to the office of the Corporate Secretary of Westwater Resources, Inc. at 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112. In the event that the Company makes any amendment to, or grants any waiver from, a provision of the Code of Ethics for Senior Financial Officers that applies to the Company's principal executive officer, principal financial officer, principal accounting officer, controller, or certain other senior officers and requires disclosure under applicable SEC rules, the Company intends to disclose such amendment or waiver and the reasons for the amendment or waiver on the Company's website or, as required by NYSE American rules, file a Current Report on Form 8-K with the SEC reporting the amendment or waiver.

The Company's website address is provided as an inactive textual reference only. The information provided on the website is not incorporated by reference into, and does not form a part of, this proxy statement.

## **Related Party Transactions**

The Company's general policy with respect to related party transactions is included in its Code of Business Conduct and Ethics, the administration of which is overseen by the Audit Committee. Directors and officers are required to report to the Audit Committee any potential transaction that the Company would be required to disclose pursuant to Item 404(a) of Regulation S-K promulgated under the Exchange Act (a "Related Party Transaction"). If a potential Related Party Transaction is disclosed to the Audit Committee, it will be reviewed by the non-interested members of Audit Committee and they will decide whether the Related Party Transaction will be permitted.

The Company also collects information about actual or potential Related Party Transactions in its annual questionnaire completed by directors and officers. Potential Related Party Transactions are subject to the review and approval of the non-interested members of the Audit Committee. In determining whether to approve any such transaction, the Audit Committee will consider such factors as it deems relevant, including, but not limited to, whether the transaction is on terms comparable to those that could be obtained in arm's length negotiations with an unrelated third party. There are currently no Related Party Transactions.

### **Board Oversight of Risk Management**

The Board has overall responsibility for risk oversight with a focus on the most significant risks facing the Company. The Board relies upon the President and Chief Executive Officer to supervise day-to-day risk management, who reports directly to the Board and certain Committees on such matters as appropriate.

The Board is also responsible for oversight of the Company's efforts to address ESG matters. The Company has a long history of environmental leadership, especially with regard to state and federal regulations as they apply to our former uranium operations. In addition, we have performed our work without serious injury for many years — emblematic of our approach to safe work practices, procedures and leadership. As part of our environmental sustainability efforts as we develop our graphite business, the Westwater team has developed, and made a provisional patent application for, a process that purifies graphite with a lighter environmental footprint than processes used by others in our business. Also, as part of our ongoing efforts to provide for diversity on our Board of Directors, two-thirds of the independent Directors are females.

The Board delegates certain oversight responsibilities to its Committees. For example, while the primary responsibility for financial and other reporting, internal controls, compliance with laws and regulations and ethics rests with the management, the Audit Committee provides risk oversight with respect to the Company's financial statements, the Company's compliance with legal and regulatory requirements and corporate policies and controls, and the independent auditor's selection, retention, qualifications, objectivity and independence. Additionally, the Compensation Committee provides risk oversight with respect to the Company's compensation programs, and the Nominating and Corporate Governance Committee provides risk oversight with respect to the Company's governance structure and processes and succession planning. The Board and each Committee consider reports and presentations from the members of management responsible for the matters considered to enable the Board and each Committee to understand and discuss risk identification and risk management.

## AUDIT COMMITTEE REPORT

The Audit Committee, operating under a written charter adopted by the Board, reports to and acts on behalf of the Board by providing oversight of the Company's independent auditor and the Company's financial management and financial reporting procedures. Management has primary responsibility for preparing the Company's financial statements and establishing and maintaining effective internal financial controls and for the public reporting process. Moss Adams LLP, the Company's independent registered public accountant, is responsible for auditing those financial statements and expressing an opinion on the conformity of the Company's audited financial statements with generally accepted accounting principles.

In this context, the Audit Committee reviewed and discussed with management and Moss Adams LLP the audited financial statements for the year ended December 31, 2022, the Moss Adams audit fees, and management's assessment of the effectiveness of the Company's internal control over financial reporting. The Audit Committee has discussed with Moss Adams LLP the matters that are required to be discussed by the applicable Public Company Accounting Oversight Board and SEC standards. Moss Adams LLP has provided to the Audit Committee the written disclosures and the letter required by applicable requirements of the Public Company Accounting Oversight Board regarding Moss Adams LLP's communications with the Audit Committee concerning independence, and the Audit Committee discussed with Moss Adams LLP that firm's independence. The Audit Committee also concluded that Moss Adams LLP's provision of audit and non-audit services to the Company and its affiliates is compatible with Moss Adams LLP's independence.

Based on the considerations referred to above, the Audit Committee recommended to the Board that the audited financial statements for the year ended December 31, 2022, be included in the Company's Annual Report on Form 10-K for 2022 and selected Moss Adams LLP as the independent registered public accountants for the Company for 2023.

The Report was submitted by the following members of the Audit Committee of the Board:

Deborah A. Peacock, Chair  
Tracy D. Pagliara  
Karli S. Anderson

*The information contained in the foregoing Audit Committee Report shall not be deemed to be "soliciting material" or "filed" with the SEC, nor shall such information be incorporated by reference into a future filing under the Securities Act of 1933, as amended (the "**Securities Act**"), or the Exchange Act, except to the extent the Company specifically incorporates this Report by reference therein.*

## DIRECTOR COMPENSATION

### Annual Compensation

The annual cash retainer for non-employee directors is \$60,000, earned at a rate of \$15,000 per quarter. Prior to February 26, 2022, the annual compensation of the Company's Chairman of the Board, Mr. Cryan, was \$140,000, earned at a rate of \$35,000 per quarter. Effective February 26, 2022, in addition to that compensation Mr. Cryan is also paid an additional \$150,000 per year, or \$12,500 per month, for his service as Executive Chairman. All of the Company's directors are also reimbursed for reasonable out-of-pocket expenses related to attendance at Board and Committee meetings.

In addition, compensation for each non-employee director for each committee served upon is equal to \$2,500 per quarter, with the Chair of each committee earning an additional \$2,500 per quarter for such service.

Also, each non-employee director was provided with a stock award valued at \$70,000 following the annual general meeting of stockholders held in May 2022.

The following table summarizes all compensation earned by non-employee directors during the year ended December 31, 2022.

Name	Fees Earned or Paid in Cash (\$)	Stock Awards \$( <sup>(1)</sup> )	Total (\$)
Terence J. Cryan+ . . . . .	280,034	146,300	426,334
Tracy D. Pagliara . . . . .	98,417	70,000	168,417
Karli S. Anderson . . . . .	100,000	70,000	170,000
Deborah A. Peacock . . . . .	98,417	97,250	195,667

+ Mr. Cryan was an Independent Director through February 25, 2022. He became Executive Chairman on February 26, 2022, and as a result he is no longer an Independent Director.

(1) Represents the grant date fair value of equity awards granted during 2022 in accordance with FASB ASC Topic 718. See Note 8 — Stock Based Compensation of the Notes to Consolidated Financial Statements in Item 8 of the Annual Report on Form 10-K for a discussion of valuation assumptions for stock and option awards.

The number of Restricted Stock Units ("RSUs") and vested and unvested stock options held by each non-employee director at fiscal year-end 2022 is shown below:

Name	Number of Vested Options	Number of Unvested Options	Restricted Stock Units
Terence J. Cryan+ . . . . .	53,653	—	134,220
Tracy D. Pagliara . . . . .	53,653	—	64,220
Karli S. Anderson . . . . .	52,707	78,720	—
Deborah A. Peacock . . . . .	52,707	—	64,220

+ Mr. Cryan was an Independent Director through February 25, 2022. He became Executive Chairman on February 26, 2022, and as a result he is no longer an Independent Director.

## PROPOSAL 2

### AMENDMENT TO OUR 2013 OMNIBUS INCENTIVE PLAN

The Westwater Resources, Inc. 2013 Omnibus Incentive Plan (the “Incentive Plan”) is the sole active plan that provides for equity incentive compensation to our eligible directors, officers, employees, and consultants. The Board believes that the Incentive Plan is in the best interests of the Company and our stockholders as equity awards help to attract, retain, and motivate the directors, officers, and employees of the Company to achieve long-term performance goals and enable them to participate in the long-term growth of the Company. In addition, the Board views equity awards as an important form of compensation for our executive officers, which aligns the interests of the stockholders and the Company’s executive officers.

Stockholders originally approved the Incentive Plan at our annual meeting on June 4, 2013. Over the ensuing 9-3/4 years, the Incentive Plan was utilized by the Board to make awards to eligible directors, officers, employees, and consultants, and our stockholders routinely approved amendments to the Incentive Plan to increase the number of shares available for that purpose. By February 2023, there were only 415,815 shares available in the Incentive Plan, which is not sufficient for the anticipated equity awards to eligible directors, officers, and employees in Fiscal Year 2023.

On February 10, 2023, our Compensation Committee and Board approved, subject to shareholder approval at the Annual Meeting, an amendment to the Incentive Plan to authorize 1.5 million additional shares for issuance under the Incentive Plan. This amount was determined based upon the anticipated need to issue equity awards to directors, officers, employees and other eligible participants from the Incentive Plan over the next one year (i.e., the annual “burn rate”). In addition, this amount is consistent with prior increases to the Incentive Plan that have been approved by the stockholders. The additional shares represents approximately 3.0 percent on a fully diluted basis, of the 49,999,759 shares of our common stock that was outstanding as of March 13, 2023, and as such, represents minimal risk of dilution or overhang. The proposed change is the same as was requested and approved by the shareholders at the 2021 Annual Meeting (at that time the request was to approve a 1.5 million share increase representing approximately 4.7 percent on a fully diluted basis).

The following table summarizes the number of shares of common stock subject to outstanding equity awards under the Incentive Plan, along with the shares remaining available for issuance under the Incentive Plan, in each case as of March 13, 2023:

	Numbers of Shares	As a % of Common Stock Outstanding <sup>(1)</sup>
Stock options outstanding <sup>(2)</sup> . . . . .	356,204	0.71%
Restricted stock units outstanding . . . . .	1,036,930	2.07%
Restricted stock awards outstanding . . . . .	—	—
Shares available for grant . . . . .	415,815	0.83%

(1) Based on 49,999,759 shares outstanding as of March 13, 2023.

(2) The weighted average exercise price of the outstanding stock options as of March 13, 2023, was approximately \$4.63 per share.

#### Reasons for Approval

We have made strides to better position the Company for growth and future success by embarking on a growth strategy in the battery materials and energy storage industry. We are committed to further improving the Company’s performance, and significant continued effort, focus and dedication will be necessary from our management and employees to do so. We believe it will be critical to our future success that we take steps to maintain the competitiveness of our incentive pay programs and that we continue to closely align these incentive opportunities with the interests of our stockholders.

To achieve these critical objectives, as discussed more fully below, we are seeking additional shares for issuance under the Incentive Plan.

### *Retaining and Attracting Employees*

Our ability to recruit, retain, reward, and motivate employees and officers depends in part on our ability to offer competitive equity compensation. We believe we would be at a competitive disadvantage if we could not continue to use equity awards to recruit and compensate these individuals.

### *Aligning our Employees' Interests with our Stockholders*

We believe that the use of equity awards as part of our compensation program is important to our continued success because it fosters a pay for performance culture, which is an important element of our overall compensation philosophy. We believe equity compensation motivates employees to create stockholder value because the value employees realize from equity compensation is directly aligned with creation of stockholder value as reflected by the share price of the Company.

As discussed above, we believe that equity compensation aligns the goals and objectives of our employees with the interests of our stockholders and promotes a focus on long-term value creation. This long-term alignment between our employees and the interests of our stockholders is critical as our management strives to execute on our vision and growth plans. Equity awards that are subject to time-based and performance-based vesting criteria are designed to help retain key personnel and motivate them to attain our potential.

If we do not have the flexibility to grant equity awards under the Incentive Plan, we may need to increase the cash component of our employees' compensation in order to remain market competitive. Increasing cash compensation would increase our cash compensation expense and would divert cash that could otherwise be invested in the Company's business.

We are requesting approval of the amendment to the Incentive Plan in order to continue to recruit and retain the key employee talent that is vital to the execution of our vision and growth plans and to continue to closely align compensation opportunities with the creation of stockholder value.

### *Corporate Governance Considerations*

As discussed in more detail below, our Incentive Plan includes provisions designed to serve stockholders' interests and promote effective corporate governance, including the following:

- *No "Evergreen Provision."* The Incentive Plan specifies a fixed number of shares available for future grants and does not provide for any automatic increase based on the number of outstanding shares of our common stock.
- *No Discounted Awards.* The Incentive Plan prohibits the granting of stock options and stock appreciation rights with an exercise or grant price that is less than the fair market value of our common stock on that date.
- *No Re-pricing without Stockholder Approval.* The Incentive Plan prohibits the re-pricing of stock options and stock appreciation rights, without first obtaining the approval of our stockholders.

### **Description of the Incentive Plan**

Including the proposed amendment, the following is a general description of the material features of the Incentive Plan and its operation. A copy of the Incentive Plan is attached as Appendix B to this Proxy Statement. The description below is qualified in its entirety by the detailed provisions of the Incentive Plan, which are set forth in Appendix B, and the proposed amendment, which is set forth in Appendix A. Because participation in and the types of awards to be granted under the Incentive Plan are subject to the discretion of our Compensation Committee, the benefits or amounts that will be received by any participant or group of participants are not currently determinable.

### *Eligibility*

All of our officers, directors and employees, and the officers, directors and employees of our subsidiaries and affiliates, are eligible to receive awards under the Incentive Plan. In addition, consultants, advisers, and certain other individuals whose participation in the Incentive Plan is determined to be in the best interests of

the Company by the Compensation Committee may participate. However, non-qualified stock options are only available to our employees. As of March 13, 2023, 16 individuals were eligible to receive awards under the Incentive Plan.

#### *Administration of the Incentive Plan*

The Incentive Plan is administered by our Compensation Committee, and our Compensation Committee determines all awards, all terms and conditions of awards, and the number of shares of common stock subject to awards under the Incentive Plan for employee-directors, officers, employees, and consultants. The Nominating and Corporate Governance Committee determines the number of shares of common stock subject to awards under the Incentive Plan for non-employee directors. Each member of our Compensation Committee and each member of our Nominating and Corporate Governance Committee is both a “non-employee director” within the meaning of Rule 16b-3 of the Exchange Act, and an “outside director” within the meaning of Section 162(m) of the Internal Revenue Code. Our Compensation Committee also interprets the provisions of the Incentive Plan. During any period of time in which we do not have a Compensation Committee, the Incentive Plan will be administered by the Board of Directors or another committee appointed by the Board of Directors. References herein to our Compensation Committee include a reference to the Board of Directors or another committee appointed by the Board of Directors for those periods in which the Board of Directors or such other committee appointed by the Board of Directors is acting.

#### *Stock Authorization*

Assuming this Proposal is approved, the maximum number of shares of common stock available for awards under the Incentive Plan is equal to the sum of (x) 415,815 shares that existed within the Incentive Plan on March 13, 2023, plus (y) the number of shares available for awards under our prior equity plans as of June 4, 2013, including any awards made under those plans that terminate by expiration, forfeiture, or cancellation, plus (z) the additional 1,500,000 shares being authorized for issuance under the Incentive Plan.

The maximum number of shares of common stock subject to options or stock appreciation rights that can be issued under the Incentive Plan to any person is 400,000 shares in any single calendar year. The maximum number of shares that can be issued under the Incentive Plan to any person other than pursuant to an option or stock appreciation right is 400,000 shares in any single calendar year. The maximum amount that may be paid as a cash-settled performance-based award for a performance period of twelve months or less to any person eligible for an award is \$400,000 and the maximum amount that may be paid as a cash-settled performance-based award for a performance period of greater than twelve months to any person eligible for an award is also \$400,000.

#### *Share Usage*

Each share subject to an award, including through dividend reinvestment rights, is counted against the share issuance limit on a one-for-one basis. The number of shares subject to a stock appreciation right is also counted against the share issuance limit on a one-for-one basis, regardless of the number of shares actually issued to settle the stock appreciation right. An award that, by its terms, cannot be settled in shares of stock will not count against the share issuance limit.

#### *No Repricing*

Except in connection with certain corporate transactions, no amendment or modification may be made to an outstanding stock option or stock appreciation right, including by replacement with or substitution of another award type, that would reduce the exercise price of the stock option or stock appreciation right or would replace any stock option or stock appreciation right with an exercise price above the current market price with cash or another security, in each case without the approval of our stockholders (although appropriate adjustments may be made to outstanding stock options and stock appreciation rights to achieve compliance with applicable law, including the Internal Revenue Code).

#### *Types of Awards Available Under the Incentive Plan*

The Incentive Plan allows for several different types of awards and sets forth the various terms and conditions associated with those awards. In sum, the following six type of awards can be made: (1) stock

options including those that do not qualify as incentive stock options; (2) stock awards including restricted stock, unrestricted stock, and stock units; (3) stock appreciation rights; (4) performance-based awards; (5) dividend equivalents; and (6) other equity-based awards, including those payable in cash, as determined by the Compensation Committee. For a complete description of each award and their specific terms and conditions, see Appendix B.

#### *Recoupment*

Award agreements for awards granted pursuant to the Incentive Plan provide for mandatory repayment by the recipient to us of any gain realized by the recipient to the extent the recipient is in violation of or in conflict with certain agreements with us (including but not limited to an employment or non-competition agreement) or upon termination for “cause” as defined in the Incentive Plan, applicable award agreement, or any other agreement between us and the grantee. Awards are also subject to mandatory repayment to the extent the grantee is or becomes subject to any clawback or recoupment right we may have or to the extent any law, rule or regulation imposes mandatory recoupment.

#### *Change in Control*

If the Company experiences a change in control in which outstanding awards that are not exercised prior to the change in control will not be assumed or continued by the surviving entity: (i) except for performance-based awards, all shares of restricted stock and restricted stock units will vest and the underlying shares of common stock and all dividend equivalent rights will be delivered immediately before the change in control; and (ii) either or both of the following actions will be taken: (a) all options and stock appreciation rights will become exercisable 15 days before the change in control and terminate upon the completion of the change in control, or (b) the Compensation Committee may elect, in its sole discretion to cash out all options, stock appreciation rights, restricted stock and stock units before the change in control for an amount equal to, in the case of restricted stock or stock units, the formula or fixed price per share paid to stockholders pursuant to the change in control, in the case of options or stock appreciation rights, such formula or fixed price reduced by the option price or stock appreciation right price applicable to the award. In the case of performance-based awards denominated in shares of common stock, if more than half of the performance period has lapsed, the awards will be converted into shares of restricted stock or stock units based on actual performance to date. If less than half of the performance period has lapsed, or if actual performance is not determinable, the awards will be converted into shares of restricted stock or stock units assuming target performance has been achieved.

A change in control under the Incentive Plan occurs if:

- a person, entity or affiliated group (with certain exceptions, including for certain existing stockholders) acquires, in a transaction or series of transactions, 50% or more of the total combined voting power of our outstanding securities;
- individuals who constitute the Board cease for any reason to constitute a majority of the Board of Directors, treating any individual whose election or nomination was approved by a majority of the incumbent directors as an incumbent director for this purpose;
- the Company consolidates or merges with or into any other entity, or any other entity consolidates or merges with us, other than any such transaction in which the 100% of the total combined voting power of our outstanding securities remains with the holders of securities who held such voting power immediately prior to such transaction; or
- the Company sells or disposes of all or substantially all of its assets.

#### *Adjustments for Stock Dividends and Similar Events*

The Compensation Committee will make appropriate adjustments in outstanding awards and the number of shares of common stock available for issuance under the Incentive Plan, including the individual limitations on awards, to reflect stock splits and other similar events.

#### *Amendment or Termination*

The Board of Directors may amend, suspend or terminate the Incentive Plan at any time; *provided* that no amendment, suspension or termination may adversely impair the benefits of participants with outstanding



awards without the participants' consent or violate our plan's prohibition on repricing. Our stockholders must approve any amendment if such approval is required under applicable law or stock exchange requirements. Our stockholders also must approve any amendment that changes the no-repricing provisions of the Incentive Plan. The Incentive Plan has a term that expires fifteen years after the original stockholder approval of the Incentive Plan, i.e., on June 4, 2028, but it may be earlier terminated by the Board of Directors at any time.

### **Equity Compensation Plan Information**

The table appearing on page 22 provides information as of March 13, 2023, with respect to the shares of the Company's common stock that may be issued under the equity compensation plans of the Company. Other than the Westwater Employment Inducement Incentive Award Plan, which is only available for new employees, our only active equity plan is our Incentive Plan.

### **Federal Income Tax Consequences**

*Incentive Stock Options.* The grant of an option will not be a taxable event for the grantee or for the Company. A grantee will not recognize taxable income upon exercise of an incentive stock option (except that the alternative minimum tax may apply), and any gain realized upon a disposition of our common stock received pursuant to the exercise of an incentive stock option will be taxed as long-term capital gain if the grantee holds the shares of common stock for at least two years after the date of grant and for one year after the date of exercise (the "holding period requirement"). We will not be entitled to any business expense deduction with respect to the exercise of an incentive stock option, except as discussed below.

For the exercise of an option to qualify for the foregoing tax treatment, the grantee generally must be our employee or an employee of a subsidiary from the date the option is granted through a date within three months before the date of exercise of the option.

If all of the foregoing requirements are met except the holding period requirement mentioned above, the grantee will recognize ordinary income upon the disposition of the common stock in an amount generally equal to the excess of the fair market value of the common stock at the time the option was exercised over the option exercise price (but not in excess of the gain realized on the sale). The balance of the realized gain, if any, will be capital gain. We will be allowed a business expense deduction to the extent the grantee recognizes ordinary income.

*Non-Qualified Options.* The grant of an option will not be a taxable event for the grantee or the Company. Upon exercising a non-qualified option, a grantee will recognize ordinary income in an amount equal to the difference between the exercise price and the fair market value of the common stock on the date of exercise. Upon a subsequent sale or exchange of shares acquired pursuant to the exercise of a non-qualified option, the grantee will have taxable capital gain or loss, measured by the difference between the amount realized on the disposition and the tax basis of the shares of common stock (generally, the amount paid for the shares plus the amount treated as ordinary income at the time the option was exercised).

We will be entitled to a business expense deduction in the same amount and generally at the same time as the grantee recognizes ordinary income.

*Restricted Stock.* A grantee who is awarded restricted stock will not recognize any taxable income for federal income tax purposes in the year of the award, provided that the shares of common stock are subject to restrictions (that is, the restricted stock is nontransferable and subject to a substantial risk of forfeiture). The fair market value of the common stock on the date the restrictions lapse (less the purchase price, if any) will be treated as compensation income to the grantee and will be taxable in the year the restrictions lapse and dividends paid while the common stock is subject to restrictions will be subject to withholding taxes. We will be entitled to a business expense deduction in the same amount and generally at the same time as the grantee recognizes ordinary income.

*Stock Units.* There are no immediate tax consequences of receiving an award of stock units under the Incentive Plan. A grantee who is awarded stock units will be required to recognize ordinary income in an amount equal to the fair market value of shares issued to such grantee at the end of the restriction period or, if later, the payment date. We will be entitled to a business expense deduction in the same amount and generally at the same time as the grantee recognizes ordinary income.

*Dividend Equivalent Rights.* Participants who receive dividend equivalent rights will be required to recognize ordinary income in an amount distributed to the grantee pursuant to the award. We will be entitled to a business expense deduction in the same amount and generally at the same time as the grantee recognizes ordinary income.

*Stock Appreciation Rights.* There are no immediate tax consequences of receiving an award of stock appreciation rights under the Incentive Plan. Upon exercising a stock appreciation right, a grantee will recognize ordinary income in an amount equal to the difference between the exercise price and the fair market value of the common stock on the date of exercise. We will be entitled to a business expense deduction in the same amount and generally at the same time as the grantee recognizes ordinary income.

**THE BOARD UNANIMOUSLY RECOMMENDS A VOTE “FOR” THE APPROVAL OF THE AMENDMENT TO THE WESTWATER RESOURCES, INC. 2013 OMNIBUS INCENTIVE PLAN TO INCREASE THE AUTHORIZED NUMBER OF SHARES OF COMMON STOCK AVAILABLE AND RESERVED FOR ISSUANCE UNDER SUCH PLAN BY 1,500,000 SHARES.**

#### **SECURITIES AUTHORIZED FOR ISSUANCE UNDER EQUITY COMPENSATION PLANS**

The following table provides information as of March 13, 2023, with respect to the shares of common stock that may be issued under our equity compensation plans.

<b>Plan Category</b>	<b>Number of shares issuable under outstanding options, warrants and rights (a)</b>	<b>Weighted average exercise price of outstanding options, warrants and rights (b)</b>	<b>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column(a)) (c)</b>
Equity compensation plans approved by security holders <sup>(1)(2)</sup> . . . . .	1,393,134	\$4.63	415,815

(1) The Incentive Plan is the only equity compensation plan under which the Company currently issues equity awards.

(2) Weighted average exercise price of outstanding options only.

## PROPOSAL 3

### ADVISORY VOTE TO APPROVE EXECUTIVE COMPENSATION

#### Executive Officers

The executive officers serve at the discretion of the Board. All officers are employed on a full-time basis. The following table identifies the Company's executive officers as of March 13, 2023.

Name	Age	Position
Frank Bakker	57	President and Chief Executive Officer
Steven M. Cates	43	Senior Vice President – Finance, Chief Financial Officer & Treasurer
John W. Lawrence	61	Chief Administrative Officer, General Counsel & Corporate Secretary

Frank Bakker — please see above under “*Proposal 1: Election of Directors*” for information about Frank Bakker, the Company's President and Chief Executive Officer.

Steven M. Cates joined the Company as Chief Accounting Officer and Controller in May 2021. In August 2022, Mr. Cates was promoted to the position of Vice President — Finance, Chief Financial Officer and Treasurer, following the retirement of Jeffrey L. Vigil who served in the role prior to Mr. Cates. In January 2023, Mr. Cates was promoted to the position of Senior Vice President — Finance, Chief Financial Officer and Treasurer. Mr. Cates has over 20 years of financial and accounting experience in various industries including mining, oil and gas, real estate, and public accounting. Prior to joining Westwater, Mr. Cates served as the Vice President — Controller for Apartment Income REIT Corp. (NYSE: AIRC), formerly part of Apartment Investment and Management Company (NYSE: AIV), a real estate investment trust focused on apartment communities, from May 2019 to April 2021. Prior to his time at Apartment Income REIT Corp., Mr. Cates served as corporate controller for Caliber Midstream Partners, LP, an energy and oil infrastructure company, from September 2016 to May 2019, and previously, Mr. Cates held various accounting and financial reporting roles at American Midstream Partners, LP (2013 – 2016), Newmont Mining Corporation (2012 – 2013), and Thompson Creek Metals Company Inc. (2009 – 2012). Mr. Cates began his career at KPMG in 2002, where he most recently served as senior manager for audit and advisory services. Mr. Cates earned a Bachelor of Science degree in Accounting from the University of Redlands and is a Certified Public Accountant in the State of Colorado.

John W. Lawrence has served the Company in a contractual capacity as General Counsel since October 2012 and as Corporate Secretary since May 2013. Mr. Lawrence became an employee of the Company in February 2022, and continues to serve as General Counsel and Corporate Secretary. In January 2023, Mr. Lawrence was promoted to Chief Administrative Officer, General Counsel and Corporate Secretary. Mr. Lawrence has forty years of legal and engineering experience for publicly traded companies. Previously, he served as General Counsel and Corporate Secretary for Ocean Power Technologies, Inc., a renewable energy company providing electric power and communications solutions, and related services for remote offshore applications from June 2014 to January 2022. In addition, he served as General Counsel and Corporate Secretary for Louisiana Energy Services, LLC, a commercial uranium enrichment facility located in New Mexico and operating under the privately-owned, international consortium known as Urenco, from 2003 to 2008. Prior to 2003 and between 2008 and 2012, Mr. Lawrence was associated with several national law firms including Winston & Strawn, Shaw, Pittman, Potts & Trowbridge, and LeBoeuf, Lamb, Greene & MacRae. Mr. Lawrence holds a Juris Doctorate from Catholic University and received his Bachelor of Science in Nuclear Engineering from Purdue University.

#### Compensation Discussion and Analysis

In this section and the sections that follow, we discuss the Company's compensation philosophy, describe the compensation program for the senior executive team, and address the fundamental objective of aligning executive compensation with the long-term interests of stockholders. We explain how the Compensation

Committee determines compensation for its senior executives and its rationale for specific 2022 compensation decisions, and we also provide a summary of the historical activities by the Compensation Committee that are relevant to its decision-making.

The Compensation Discussion and Analysis describes the compensation of the following named executive officers (“NEOs”) who served during Fiscal Year 2022 and through March 13, 2023: President and Chief Financial Officer; Vice President — Finance and Chief Financial Officer; and General Counsel and Corporate Secretary. The table provided below identifies the specific individuals who served in those roles and the dates of their respective service. The philosophy discussed below is expected to be applied by the Board to the NEOs who will serve during fiscal year 2023.

<b>Name</b>	<b>Title</b>	<b>Dates of Service (FY2022 to date)</b>
Christopher M. Jones	President, Chief Executive Officer, and Director	January 1, 2022 – February 25, 2022
Chad M. Potter	President, Chief Executive Officer, and Director	February 25, 2022 – January 16, 2023
Frank Bakker	President, Chief Executive Officer, and Director	January 16, 2023 to date
Jeffrey L. Vigil	Vice President – Finance and Chief Financial Officer	January 1, 2022 – August 26, 2022
Steven M. Cates	Vice President – Finance and Chief Financial Officer	August 26, 2022 – January 16, 2023
	Senior Vice President – Finance and Chief Financial Officer	January 16, 2023 to date
John W. Lawrence	General Counsel and Corporate Secretary	January 1, 2022 – January 16, 2023
	Chief Administrative Officer, General Counsel and Corporate Secretary	January 16, 2023 to date

The Company’s executive compensation program is designed to attract and retain qualified management personnel, to align the interests of the Company’s management with those of its stockholders, and to reward exceptional organizational and individual performance. Performance of the Company’s executives is evaluated based on financial and non-financial goals that balance achievement of short-terms goals, related to the continued improvement of the Company’s business, and long-term goals, which seek to maximize stockholder value.

### **Philosophy and Objectives of Our Compensation Plan**

The Company’s compensation program is centered around a philosophy that focuses on management retention, alignment of interests between management and stockholders and pay-for-performance compensation. The Company believes this philosophy allows the Company to compensate its NEOs competitively, while simultaneously ensuring continued development and achievement of key business strategy goals. The Compensation Committee firmly believes that the Company’s pay-for-performance philosophy should recognize both short- and long-term performance and should include both cash and equity compensation arrangements that are supported by strong corporate governance, including active and effective oversight by the Compensation Committee.

The Compensation Committee has outlined the following objectives for compensation of our NEOs and considers such objectives in making compensation decisions:

Objective	Description
Attraction and Retention	The Company provides competitive compensation to its NEOs and ties a significant portion of compensation to time-based and performance-based vesting requirements. Together, these actions help to ensure that the Company can continue to attract and retain key management personnel.
Pay for Performance	A significant portion of each NEO's compensation is "at-risk" or variable, based on predetermined performance criteria. Such criteria include both short- and long-term goals, as well as financial and non-financial goals. The Compensation Committee considers each of these criteria in making its compensation decisions each year.
Pay Mix	The Company uses a variety of forms of fixed and variable incentive compensation, including cash, stock, options and RSUs.
Alignment of Incentives	The Company requires its NEOs to obtain a significant stock ownership stake in the Company and tie a meaningful portion of NEO compensation to awards that vest over multi-year periods.
Competitive Packages	The Company evaluates its compensation program in an effort to provide a competitive compensation package to each NEO that takes into account their responsibilities, performance and organization.

## How Executive Compensation is Determined

### *Role of the Compensation Committee*

The Compensation Committee oversees the Company's executive compensation programs. Additionally, the Compensation Committee is charged with the review and approval of all annual compensation decisions relating to the NEOs and other Company officers.

The Compensation Committee is composed entirely of independent, non-management members of the Board. Each member of the Compensation Committee is both a "non-employee director" within the meaning of Rule 16b-3 of the Exchange Act, and an "outside director" within the meaning of Section 162(m) of the Internal Revenue Code. No Compensation Committee member participates in any of the Company's employee compensation programs. Each year the Company reviews all relationships that each director has with the Company, and the Board subsequently reviews these findings. The responsibilities of the Compensation Committee, as stated in its charter, include the following:

- review and make such recommendations to the Board as the Compensation Committee deems advisable with regard to all incentive-based compensation plans and equity-based plans;
- review and approve the corporate goals and objectives that may be relevant to the compensation of NEOs and other Company officers;
- evaluate the performance of the NEOs and other Company officers in light of the goals and objectives that were set and determine and approve the compensation of the NEOs and other Company officers based on such evaluation; and
- review and approve the recommendations of the CEO with regard to the compensation of all officers of the Company other than the CEO.

### *Role of Management*

The Compensation Committee considers input from the CEO when making executive compensation decisions for the other NEOs and other Company officers. The CEO's input is useful because the CEO reviews and observes the performance of the other NEOs and other Company officers. No other NEO or Company officer is present or privy to the recommendations of the CEO to the Compensation Committee. The Compensation Committee and the Board of Directors determine the compensation of the CEO without any management input.

### *Financial and Non-Financial Performance Goals*

The Compensation Committee believes that a significant portion of each NEO's and other Company officer's compensation should be tied to the Company's performance measured against specific performance targets. The Company measures performance awards against certain operational cost targets, budget targets and exploration, development and production objectives. The Compensation Committee also believes that a significant portion of compensation for the NEOs and other Company officers should be tied to the creation and protection of stockholder value through the achievement of financial performance goals. Both financial and non-financial performance goals have changed from time to time and will continue to change as the conditions of the Company and the graphite market evolve. The Company's core values are identified below.

Continuous improvement in:

- Safety, of:
  - Each other;
  - Our environment;
  - The communities where we work;
  - Our assets; and
  - Our reputation.
- Cost management:
  - Focus on first quartile cost performance; and
  - Effective and efficient use of our stockholder's assets.
- Reliability and integrity:
  - Highest level of performance every day;
  - Improving our processes; and
  - Conservative promises well-kept.

### *Peer Group Analysis and Use of Compensation Consultants*

The Company has historically evaluated its compensation program against the programs at other companies in order to ensure its compensation program is competitive. Peer companies were selected based on (i) revenue scope within a reasonable range, (ii) asset size within a reasonable range of the Company's asset size, and (iii) energy technology companies with operational scope comparable to that of the Company. During 2021, the Compensation Committee utilized the services of NFP Compensation Consulting (f/k/a Longnecker & Associates) to help identify an appropriate group of peer companies and to assist the Board in structuring Westwater's long-term incentive program to ensure it was competitive as an incentive and retention program. The same peer group was used during 2022.

### *2013 Omnibus Incentive Plan*

In June 2013, Westwater adopted the 2013 Omnibus Incentive Plan (the "Incentive Plan") to provide flexibility in structuring its executive compensation program and to ensure that it would have a sufficient number of shares of common stock available for equity-based awards that it expects to make to eligible individuals. The Incentive Plan replaced all prior plans and no more awards were granted under any of the prior plans following the adoption of the Incentive Plan.

The Incentive Plan provides the Compensation Committee substantial flexibility in structuring awards that meet the objectives outlined above. In particular, the Incentive Plan permits the grant of performance-based and time-based restricted stock units (RSUs), with many possible performance criteria available as the Compensation Committee determines to be appropriate. In addition to RSUs, the Incentive Plan provides for the grant of awards of stock options, stock appreciation rights, restricted stock, unrestricted stock, dividend equivalent rights, performance shares and other performance-based awards, other equity-based awards and

cash bonus awards. All of the Company's officers, directors and employees, and the officers, directors and employees of our subsidiaries and affiliates are eligible to receive awards under the Incentive Plan. In addition, consultants, advisors, and certain other individuals whose participation in the Incentive Plan is determined to be in the best interests of the Company by the Compensation Committee may participate. Incentive share options, however, are only available to employees. Please see Proposal 2 for further information about the Incentive Plan and a proposed amendment to increase the number of shares of Company common stock available for issuance under the Incentive Plan.

The Incentive Plan is administered by the Compensation Committee. The Compensation Committee also interprets the provisions of the Incentive Plan. The Compensation Committee also determines which officers, employees and consultants, if any, will receive awards under the Incentive Plan, the types of awards made, the terms and conditions of awards, and the number of shares of common stock subject to an award, if the award is equity-based.

#### *Executive Compensation Elements*

The following table illustrates the principal elements of the Company's executive compensation program, each of which is evaluated and updated on an annual basis by the Compensation Committee:

<b>Pay Element</b>	<b>Characteristics</b>	<b>Primary Objective</b>
Base Salary	Annual fixed cash compensation	Attract and retain qualified and high performing executives
Short-Term Incentive Compensation	Annual compensation based on the achievement of predetermined performance goals	Incentivize NEOs and Company officers to achieve the short-term performance goals established by the Compensation Committee
Long-Term Incentive Compensation	Long-term equity awards granted as time-based and performance-based RSUs or stock options	Retain NEOs and Company officers and align their interests with the interests of the stockholders

In addition to the above-mentioned elements, the Company also provides a retirement, health, and welfare benefit component to the executive compensation program.

#### *Favorable Vote on the Say-on-Pay Proposal in 2022, and Historical Comparison 2018 through 2021*

The Board and the Compensation Committee takes stockholder feedback seriously. The Committee considers the results of the advisory vote of the stockholders at each annual meeting as the Committee completes its annual review of each pay element and the compensation packages provided to our NEOs.

At our 2022 Annual Meeting, 76% of the shares cast on the Say-on-Pay proposal voted to approve the compensation paid to our NEOs, 21% voted against such compensation, and 3% abstained. Those results are markedly improved from the 2018 and 2019 Annual Meetings and generally consistent with the results in the 2020 and 2021 Annual Meetings. The following table illustrates the change over time. The Board and the Compensation Committee will continue to focus on driving NEO performance against specific goals and ensuring the interest of management and stockholders are aligned properly.

	<b>For Say-on-Pay Proposal</b>	<b>Against Say-on-Pay proposal</b>	<b>Abstain from Say-on-Pay Proposal</b>
2022 Annual Meeting . . . . .	76%	21%	3%
2021 Annual Meeting . . . . .	84%	13%	3%
2020 Annual Meeting . . . . .	72%	26%	2%
2019 Annual Meeting . . . . .	39%	45%	16%
2018 Annual Meeting . . . . .	45%	51%	4%

Due to the results of the Say-on-Pay vote at the 2018 Annual Meeting, the Compensation Committee initiated and directed a comprehensive review of the Company's compensation policies and practices. The

Board of Directors directed management to contact some of our largest stockholders to determine how the Company could improve its executive compensation practices. As a result of investor outreach, the Compensation Committee did not award short-term incentive (STI) bonuses to NEOs for 2018. In addition, since total stockholder return in 2018 did not meet specific performance objectives identified in the 2017 LTI goals set by the Compensation Committee, 2018 performance-based RSUs were forfeited.

Also in direct response to the Say-on-Pay proposal at the 2018 Annual Meeting, the Board of Directors held a meeting on January 29, 2019, and therein appointed Karli S. Anderson to the Compensation Committee, and also appointed her to serve as the new Chair of the Compensation Committee effective immediately. The former Chair continued to serve on the Compensation Committee until April 18, 2019, when the 2019 annual general meeting of stockholders was held and his term as a director ended.

In direct response to the Say-on-Pay proposals at the 2018 and 2019 Annual Meetings, the Compensation Committee of the Board of Directors held meetings in August 2019 and therein directed the Westwater management team to prepare a survey of stockholders in order to solicit their input regarding the Company's compensation structure for its named executive officers. On December 7, 2019, the Chairman of the Board approved the survey and issued a letter to the Company's stockholders encouraging their participation. Immediately thereafter the Westwater management team posted the survey to the Company's website, caused the survey to be posted to the website of a third-party service provider, and sent a broadcast email message to approximately 2,500 addresses from Westwater's investor relations database alerting them to the availability of the survey.

The survey was posted for approximately three weeks and during that time Westwater received 62 responses, of which 58 responses indicated that the respondents owned Westwater common stock. All responses were provided anonymously. The survey revealed that the stockholders are aligned with the Board of Directors in their expectations regarding compensation planning for the Company's NEOs. The stockholders agreed with the Board that NEO incentive compensation should emphasize goal achievement, should be "at risk" and should be tied to approved key performance indicators. In addition, the stockholders agreed that STI and LTI awards should be granted when the Westwater management team is challenged with and achieves goals that include specific performance criteria, but if those criteria are not satisfied, the STI or LTI award should be "at risk" — i.e., the failure to achieve a goal, forfeits in part or in whole the incentive compensation that is tied to the goal.

The survey also revealed that stockholders would prefer LTI awards issued to NEOs to consist principally of performance-based stock awards and to a lesser extent time-based awards. When evaluating the long-term performance of the Company's executive management team, the preference is to reward in greater proportion the achievement of specific goals, with the remainder tied to length of service. Finally, the surveyed stockholders indicated that approximately one-quarter of the total NEO compensation should involve equity compensation.

### **Deliberations of the Compensation Committee and Board Regarding NEO Performance in 2022**

The Compensation Committee of the Board of Directors currently consists of three independent directors: Karli S. Anderson (Chair), Tracy D. Pagliara, and Deborah A. Peacock. In 2022, the Compensation Committee held three meetings and its members engaged in numerous additional informal discussions. Also in 2022, the Board held ten meetings and at several of those meetings the independent Directors discussed issues involving executive compensation. The following summarizes those meetings and discussions.

- On January 18, 2022, the Board held a meeting and during that meeting the independent Directors discussed the possible criteria that could be used for the 2022 LTI plan and the 2022 STI plan, and acknowledged the importance of aligning the LTI and STI criteria with stockholder interests. The Directors recognized that the performance criteria for the STI and LTI plans should be simplistic to understand and apply, and that those criteria should require more than ordinary work expected by the Company's officers and employees on a daily basis.
- On February 7, 2022, the Board held a meeting and during that meeting the independent Directors approved an employment agreement for Mr. Potter to serve as the Company's President and CEO, which would become effective following the retirement of Mr. Jones on February 26, 2022.



- On February 10, 2022, the Board held a meeting and during that meeting the Chair of the Compensation Committee reported that the members of the Compensation Committee had held an informal discussion regarding Mr. Cryan's service as Chairman and proposed service as Executive Chairman. The independent Directors approved an agreement for Mr. Cryan to serve as Executive Chairman with an effective date of February 26, 2022. The Board also approved several corporate governance resolutions, all effective February 26, 2022, that accepted the retirement of Mr. Jones as President and CEO, appointed Mr. Potter as the new President and CEO, and appointed Mr. Cryan as the Executive Chairman.
- On February 21, 2022, the Compensation Committee met to discuss and approve an employment agreement for Mr. Lawrence, with an effective date of February 26, 2022, at which time he would transition from a contractor to an employee and would continue to serve as the Company's General Counsel and Corporate Secretary.
- On March 8, 2022, the members of the Compensation Committee held an informal telephone conference call to discuss and to approve the STI plan for fiscal year 2022. The goals, objectives and weighting for the fiscal year 2022 STI plan are presented below.
- On May 9, 2022, the Compensation Committee held a meeting to discuss and approve the LTI plan for fiscal year 2022. The objectives and vesting criteria for the fiscal year 2022 LTI plan are presented below.
- On June 20, 2022, the Compensation Committee held a meeting to discuss Mr. Vigil's decision to retire as the Company's Vice President — Finance and Chief Financial Officer effective August 26, 2022. The Committee also discussed and agreed to promote Mr. Cates to that position effective August 26, 2022. Finally, the Committee agreed to put into place two documents to reflect those decisions — an Agreement and Release for Mr. Vigil, and an employment agreement for Mr. Cates.
- On August 26, 2022, the Board approved by unanimous written consent the corporate governance resolutions that were necessary for Mr. Cates to assume the role of Vice President — Finance and Chief Financial Officer following the retirement of Mr. Vigil from that position.
- On November 8 – 9, 2022, the Board held a meeting and during that meeting the Company's management team made a presentation to the independent Directors regarding the Company's performance in fiscal year 2022 against the fiscal year 2022 STI plan and the fiscal year 2022 LTI plan; however, no decisions were reached by the independent Directors with regard to that performance at that time.
- On January 13, 2023, the Compensation Committee held a meeting at which time the Company's management team made another presentation regarding the Company performance in fiscal year 2022 under the fiscal year 2022 STI plan and fiscal year 2022 LTI plan, as well as the Company's performance in fiscal year 2022 under the fiscal year 2021 LTI plan and the fiscal year 2020 LTI plan. The Compensation Committee requested additional information regarding the Company's performance in fiscal year 2022 under the fiscal year 2022 STI plan, and deferred any decisions on any performance under any plan until that information was provided.
- On February 10, 2023, the Compensation Committee held a meeting and approved new share ownership guidelines that are discussed further below. In addition, the Company's management team made another presentation regarding the Company's performance in fiscal year 2022 under the fiscal year 2022 STI plan, and they reviewed the information that had been requested in the meeting that occurred on January 13<sup>th</sup>. The Compensation Committee then recognized that the Company had achieved all the goals in the fiscal year 2022 STI plan other than the financing goal (see the additional discussion below), and they approved a 75 percent payout.
- On March 1, 2023, the Compensation Committee held a meeting to consider whether and to what extent the Company had satisfied in fiscal year 2022 the objectives contained in the fiscal year 2022 LTI Plan, as well as the Company's performance in fiscal year 2022 under the fiscal year 2021 LTI plan and the fiscal year 2020 LTI plan. The Committee concluded that all of the 2022 objectives in the fiscal year 2022 LTI plan has been satisfied, and they authorized a full payout under that plan. The Committee also concluded that only the time-based elements in the fiscal year 2021 LTI plan and in the fiscal year

2020 LTI plan had been met in fiscal year 2022, and that the performance elements and the TSR elements in both the fiscal year 2021 LTI plan and the fiscal year 2020 LTI plan were not met in fiscal year 2022.

## **Decisions associated with the 2022 STI Plan and the 2022 LTI Plan**

### *2022 STI Plan*

The 2022 STI plan goals were approved by the Compensation Committee in March 2022, and those goals are detailed below along with performance success measurements. On February 10, 2023, the Compensation Committee determined that the Company's management team achieved 75 percent of the total STI goals for 2022.

- 2022 STI Goal — Safety & Environmental: Zero lost time injuries for Company personnel only (weighted at 5%); zero reportable environmental incidents to the Alabama Department of Environmental Management (weighted at 5%); and total recordable injury frequency (TRIF) at 1.25 or less sitewide for Company personnel and contractors (weighted at 5%).
  - The Company achieved this goal.
- 2022 STI Goal — Funding: Secure and close external funding (excluding the ELOC and ATM), by December 31, 2022, to enable completion of Phase I budgeted construction at the Kellyton Plant based upon the approved authorization for funding with contingency (weighted at 25%).
  - The Company did not achieve this goal. The Compensation Committee recognized and commended the Company's management team for the considerable time and effort to identify and to engage with dozens of potential funding sources. The Compensation Committee also recognized that access to the capital markets has tightened for a number of reasons outside the control of the Company. However, given the importance of funding the Compensation Committee was unwilling to exercise any discretion with regard to this specific goal.
- 2022 STI Goal — Products: Receive CSPG positive test results from at least 5 customers (weighted at 15%).
  - The Company achieved this goal. The Compensation Committee spent considerable time evaluating the various CSPG tests that were conducted by numerous customers, understanding whether those results could be characterized as positive, and determining the status of the Company's sample program for those customers. In addition to representations from the Company's management team on these factors, the Compensation Committee also requested and then reviewed detailed information provided by customers to the Company. While acknowledging that there is some subjectivity in the process, in the end the Compensation Committee determined that this goal had been achieved.
- 2022 STI Goal — Sales: Achieve at least one product sales agreement, which could include a letter of intent (weighted at 15%).
  - The Company achieved and exceeded this goal, entering into three letters of intent with customers in 2022. The Compensation Committee did not exercise any discretion to award any additional amount.
- 2022 STI Goal — Personal: For fiscal year 2022 only, the NEOs each identified two personal goals and objectives that reflected upon their specific departments, roles, and responsibilities, which were assessed as reasonable by the Compensation Committee (weighted at 30%).
  - Each of the NEOs met their respective goals.

### *2022 LTI Plan*

The 2022 LTI Plan goals were approved by the Compensation Committee in May 2022, and those goals are detailed below along with performance success measurements. On March 1, 2023, the Compensation Committee determined that the Company's management team achieved all three LTI plan goals for 2022 and authorized full payout.

- 2022 LTI Goal — ISO Program Element: By December 31, 2022, the Company must develop a gap analysis plan to achieve compliance with ISO 14001 and ISO 9001 (weighed one-third).
  - The Compensation Committee determined that this goal was met when the Company's management team provided the Board, in December 2022, with an ISO 14001 and ISO 9001 gap analysis with a roadmap and timeline to achieve compliance.
- 2022 LTI Goal — R&D Program Element: By December 31, 2022, the Company must complete a resource model for the Coosa graphite deposit (weighed one-third).
  - The Compensation Committee determined that this goal was met when the Company's management team provided the Board, in November 2022, with a resource model and technical resource report for the Coosa graphite deposit, which was completed in compliance with S-K 1300 and filed with the SEC in December 2022.
- 2022 LTI Goal — Time Element: Time-based vesting over three years (weighted one-third).
  - The Compensation Committee determined that this goal was met for Company personnel who were included in the 2022 LTI plan and who were employed on March 1, 2023.

#### **Decisions associated with the 2021 LTI Plan**

The 2021 LTI plan goals were approved by the Compensation Committee and the Board in May 2021, and those goals are detailed below along with performance success measurements. On March 1, 2023, the Compensation Committee determined that only the time element goal in the 2021 LTI plan was achieved in 2022.

- 2021 LTI Goal — Performance Element: By December 31, 2022, the commissioning of the Kellyton Plant must be complete and 25 tonnes of product (1 day of production, more or less) must be produced (weighted one-third).
  - The Compensation Committee determined that this goal was not met because construction of the Kellyton Plant was not complete, thus no product had been produced.
- 2021 LTI Goal — Total stockholder return (TSR) element: Positive TSR performance from January 1, 2021 to December 31, 2022 as measured against a custom index of the Company's graphite peers (weighted one-third).
  - The Compensation Committee determined that this goal was not met because TSR performance was not positive from January 1, 2021 to December 31, 2022 as measured against a custom index of the Company's graphite peers.
- 2021 LTI Goal — Time Element: Time-based vesting over three years (weighted one-third).
  - The Compensation Committee determined that this goal was met for Company personnel who were included in the 2021 LTI plan and who were employed on March 1, 2023.

#### **Decisions associated with the 2020 LTI Plan**

The 2020 LTI plan goals were approved by the Compensation Committee and the Board in June 2020, and those goals are detailed below along with performance success measurements. On March 1, 2023, the Compensation Committee determined that only the time element goal in the 2020 LTI plan was achieved in 2022.

- 2020 LTI Goal — Performance Element: By December 31, 2022, the commissioning of the Kellyton Plant must be complete and 25 tonnes of product (1 day of production, more or less) must be produced (weighted one-third).
  - The Compensation Committee decided that this goal was not met because construction of the Kellyton Plant was not completed, thus no product had been produced.
- 2020 LTI Goal — TSR Element: Positive TSR performance from January 1, 2020 to December 31, 2022 as measured against a custom index of the Company's graphite peers (weighted one-third).

- The Compensation Committee decided that this goal was not met because TSR performance was not positive from January 1, 2020 to December 31, 2022 as measured against a custom index of the Company's graphite peers.
- 2020 LTI Goal — Time Element: Time-based vesting over three years (weighted one-third).
- The Compensation Committee determined that this goal was met for Company personnel who were included in the 2020 LTI plan and who were employed on March 1, 2023.

## Evaluation of NEO Performance in Fiscal Year 2022

The 2022 compensation mix for the NEOs demonstrates the Company's philosophy regarding significant long-term and performance-based compensation. Approximately 50 percent of the targeted total compensation of the CEO, and approximately 46 percent of the targeted total compensation for all other NEOs, was performance-based and not guaranteed. The Compensation Committee anticipates granting additional long-term performance-based and time-based equity awards to executive officers during the course of 2023 to continue aligning their long-term incentives with those of stockholders.

The following discussion addresses the components of the compensation policy for NEOs and other Company officers. As noted, for 2022 the short-term and long-term incentive programs were effective for each NEO during fiscal year 2022. It is anticipated that the Board will apply the same components of the compensation policy for fiscal year 2023 to the NEOs and Company officers.

### *Base Salary*

The Compensation Committee establishes base salaries for our executives based on the scope of their responsibilities and takes into account competitive market compensation paid by comparable companies in the mining and processing industries. The Company believes that a competitive compensation program will enhance its ability to attract and retain senior executives. In each case, the Compensation Committee takes into account each officer's: (i) current and prior compensation; (ii) scope of responsibilities; (iii) experience; (iv) comparable market salaries; and (v) the Company's achievement of performance goals (both financial and non-financial). The Compensation Committee also: (i) has the opportunity to meet with the officers at various times during the year, which allows the Compensation Committee to form its own assessment of each individual's performance; and (ii) reviews reports of the CEO presented to the Compensation Committee, evaluating each of the other officers, including a review of their contributions and performance over the past year, strengths, weaknesses, development plans and succession potential.

In fiscal year 2022, the CEO base salary for Mr. Jones remained the same from fiscal year 2021. After he retired on February 25, 2022, the base salary for the new CEO, Mr. Potter, was set at \$285,000 in light of his experience. The CFO base salary for Mr. Vigil in 2022 was increased from 2021 by 6 percent to \$263,834. After he retired on August 26, 2022, the base salary for the new CFO, Mr. Cates, was set at \$245,000 in light of his experience. When Mr. Lawrence transitioned from a contractor to an employee on February 26, 2022, his base salary was set at \$265,000.

Name	Title	Period of Service	2022 Base Salary
Christopher M. Jones+ . .	President and Chief Executive Officer	January 1 – February 26, 2022	\$334,300
Chad M. Potter++ . . . . .	President and Chief Executive Officer	February 25 – December 31, 2022	\$285,000
Jeffrey L. Vigil+++ . . . . .	Vice President – Finance and Chief Financial Officer	January 1 – August 26, 2022	\$263,834
Steven M. Cates . . . . .	Vice President – Finance and Chief Financial Officer	August 26 – December 31, 2022	\$245,000
John W. Lawrence . . . . .	General Counsel and Corporate Secretary	February 26 – December 31, 2022	\$265,000

- 
- + On February 25, 2022, Christopher Jones retired, and Chad Potter became President & CEO.
  - ++ On January 16, 2023, Chad Potter resigned, and Frank Bakker became the President & CEO. Mr. Bakker is not identified in this table because he was not an NEO in fiscal year 2022.
  - +++ On August 26, 2022, Jeff Vigil retired, and Steven Cates became Vice President & CFO.

For more information about the 2022 base salaries for each of our NEOs, please see “2022 Summary Compensation Table” on page 36.

#### *Retirement, Health and Welfare Benefits*

The Company offers a variety of health and welfare and retirement programs to all eligible employees. The NEOs and other Company officers generally are eligible for the same benefit programs on the same basis as the rest of employees. The Company’s health and welfare programs include medical, dental and vision. In addition to the foregoing, the NEOs and other Company officers are eligible to participate in the following program:

**401(k) Profit Sharing Plan.** The Company maintains a defined contribution profit sharing plan for employees (the “401(k)”) that is administered by a committee of trustees appointed by the Company. All employees are eligible to participate upon the completion of one month of employment, subject to minimum age requirements. In past years, the Company has made contributions to the 401(k) without regard to current or accumulated net profits of the Company, but stopped those contributions in 2015. The Company re-enacted matching contributions in January 2021.

#### *No Perquisites*

Other than the reimbursement to Mr. Potter and two other company employees for their use of their personal truck for Company business in fiscal year 2022, the Company does not provide any perquisites, whether cash or otherwise, to its NEOs or its other officers or employees. When Mr. Potter resigned as CEO in January 2023, the Company stopped paying for any employee to use their personal truck for Company business. In addition, the Company does not provide any tax gross-up for equity awards. Westwater feels that its executive compensation program provides its NEOs with competitive compensation such that the Company does not need to provide any perquisites to achieve the goals of its executive compensation program.

#### *Stock Ownership Policy and Clawback*

The Compensation Committee believes that ownership of Company stock by members of the executive management team, as well as stock-based performance compensation arrangements, are key to aligning the interests of management and stockholders and serve as an excellent retention tool through vesting and post-vesting holding period requirements. Consistent with that belief and following the recent changes within the executive management team, on February 10, 2023, the Compensation Committee adopted new share ownership guidelines that specify, for each member of the executive management team, an expectation that they will acquire and continue to hold during the term of their employment with the Company an amount of Company stock having a value equal to their base salary times the multiple indicated in the table below, and to achieve that multiple within five years of the later of February 10, 2023 or the date of being designated as an member of the executive management team.

Position	Base Salary Ownership Multiple
Chief Executive Officer . . . . .	5X
Other Named Executive Officers . . . . .	3X
Other Officer and Vice Presidents . . . . .	2X

The Board acknowledges that, on October 26, 2022, the SEC adopted final rules implementing the clawback provisions of the Dodd-Frank Act. The SEC rules direct national stock exchanges to establish listing standards requiring listed companies to develop and implement a policy providing for the recovery of erroneously awarded incentive-based compensation received by current or former executive officers and to

satisfy related disclosure obligations. Westwater is listed, under the trading symbol “WWR” on the New York Stock Exchange American index (NYSE American). The Board has committed to adopting a clawback policy that will comply with the final rules adopted by NYSE American as and when required.

### *Tax Treatment*

The Compensation Committee considers the anticipated tax treatment to the Company when determining executive compensation. It should be noted that there are many factors that are considered by the Compensation Committee in determining executive compensation, and the Compensation Committee retains flexibility in establishing the Company’s executive compensation programs.

### **Pay Versus Performance**

As required by Section 953(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Item 402(v) of Regulation S-K, we are providing the following information about the relationship between executive compensation actually paid and certain financial performance of our Company.

Year	Summary Compensation Table Total for PEO <sup>(1)</sup>	Compensation Actually Paid to PEO <sup>(2)</sup>	Average Summary Compensation Table Total for Non-PEO NEOs <sup>(3)</sup>	Average Compensation Actually Paid to Non-PEO NEOs <sup>(4)</sup>	Value of Initial Fixed \$100 Investment Based On Total Shareholder Return <sup>(5)</sup>	Net Income <sup>(6)</sup>
(a)	(b)	(c)	(d)	(e)	(f)	(g)
<b>2022</b> .....	<b>\$698,632</b>	<b>\$323,515</b>	<b>\$466,358</b>	<b>\$293,529</b>	<b>\$16.02</b>	<b>\$(11,121)</b>
<b>2021</b> .....	<b>\$800,264</b>	<b>\$523,815</b>	<b>\$398,653</b>	<b>\$297,966</b>	<b>\$43.61</b>	<b>\$(16,144)</b>

- (1) The dollar amounts shown in Column (b) are the amounts of total compensation as shown in our “Total” column of the Summary Compensation Table shown below for Christopher M. Jones and Chad M. Potter in 2022 as both individuals served as President & Chief Executive Officer in 2022, and for Christopher M. Jones only in 2021, as he was the only President & Chief Executive Officer in 2021.
- (2) The dollar amounts reported in Column (c) represent the amount of “compensation actually paid” to Messrs. Jones and Potter as computed in accordance with Item 402(v) of Regulation S-K. The dollar amounts do not reflect the actual amount of compensation earned by or paid to either Mr. Jones or Mr. Potter during the applicable year. In accordance with the requirements of Item 402(v) of Regulation S-K, the following adjustments were made to their total compensation for each year to determine the compensation actually paid: (i) deduction of share awards; (ii) addition of awards granted during the year that remain unvested at year end using fair value as of year-end date; (iii) addition of fair value of awards granted during the year and vested during the year with fair value determined at vesting date; (iv) addition or subtraction of the change in fair value for all awards that were granted before compensation year that remain unvested at year end, with the change in fair value as measured from end of prior year; (v) addition or subtraction of an amount equal to the change in fair value from the end of the prior year for any awards granted prior to current year that vested in the current year; (vi) for any awards granted prior to current year that failed to vest during the year, subtraction of an amount equal to the fair value of those award as of the end of the prior year; and (vii) addition of any unvested awards on which dividends or other earnings were paid that was not included in the total compensation.
- (3) The dollar amounts reported in Column (d) represent the average of the amounts reported for our Company’s named executive officers as a group (excluding Messrs. Jones and Potter) as shown in our “Total” column of the Summary Compensation Table in each applicable year. The names of each of the named executive officers (excluding Messrs. Jones and Potter) included for purposes of calculating the average amounts in each applicable year are as follows: for 2022, Messrs. Cates, Lawrence, and Vigil; and 2021, Messrs. Cates, Vigil and McCoig.
- (4) The dollar amounts reported in Column (e) represent the average amount of “compensation actually paid” to the named executive officers as a group (excluding Messrs. Jones and Potter), as computed in accordance with Item 402(v) of Regulation S-K. The dollar amounts do not reflect the actual average amount of compensation earned by or paid to the named executive officers as a group (excluding Messrs.

Jones and Potter) during the applicable year. In accordance with the requirements of Item 402(v) of Regulation S-K, the following adjustments were made to average total compensation for the named executive officers as a group (excluding Messrs. Jones and Potter) for each year to determine the compensation actually paid: see the methodology described above in Note (2) above.

- (5) The dollar amounts reported in Column (e) are calculated by dividing 100 by the share price on December 31, 2020, and then either multiplying that result by the share price on December 31, 2022 (for 2022) or multiplying that result by the share price on December 31, 2021 (for 2021). No dividends were paid on stock or option awards in 2021 or 2022.
- (6) The dollar amounts reported in Column (g) represent the amount of net income (loss) reflected in our consolidated audited financial statements for the applicable year.

#### **Analysis of the Information Presented in the Pay Versus Performance Table**

We generally seek to incentivize long-term performance, and therefore do not specifically align our performance measures with “compensation actually paid” (as computed in accordance with Item 402(v) of Regulation S-K) for a particular year. In accordance with Item 402(v) of Regulation S-K, we are providing the following descriptions of the relationships between information presented in the Pay Versus Performance table.

##### *Compensation Actually Paid and Net Income (Loss)*

Because we are not a commercial-stage company, we did not have any revenue during the periods presented. Consequently, our company has not historically looked to net income (loss) as a performance measure for our executive compensation program. In 2021 and 2022, our net income (loss) largely remained the same, but the compensation actually paid for both our PEO and non-PEO NEOs increased between 2021 and 2022.

##### *Compensation Actually Paid and Cumulative TSR*

We do utilize several performance measures to align executive compensation with the Company’s performance, but the recent trend has not used financial performance measures such as TSR. See the preceding discussion of the performance measures we use with respect to executive compensation in this section of the Proxy Statement. For example, as described in more detail above, part of the compensation our NEOs are eligible to receive consists of annual performance-based cash bonuses and equity awards that are designed to provide appropriate incentives to our executives to achieve defined annual corporate goals.

*All information provided above under the “Pay Versus Performance” heading will not be deemed to be incorporated by reference in any filing of our company under the Securities Act of 1933, as amended, whether made before or after the date hereof and irrespective of any general incorporation language in any such filing.*

## COMPENSATION COMMITTEE REPORT

The Compensation Committee has reviewed and discussed the foregoing Compensation Discussion and Analysis with management. Based on this review and discussion, the Compensation Committee recommended to the Board that the Compensation Discussion and Analysis be included in this Proxy Statement and incorporated by reference into the Company's Annual Report on Form 10-K for the year ended December 31, 2022.

This Report was submitted by the following members of the Compensation Committee of the Board:

Karli S. Anderson, Chair  
Tracy D. Pagliara  
Deborah A. Peacock

*The information contained in the foregoing Compensation Committee Report shall not be deemed to be "soliciting material" or "filed" with the SEC, nor shall such information be incorporated by reference into a future filing under the Securities Act or the Exchange Act, except to the extent Westwater specifically incorporates this Report by reference therein.*

### 2022 Summary Compensation Table

The following table sets forth information regarding 2022 and 2021 compensation for the President and CEO as well as the next two most highly-compensated NEOs (all numbers are shown in U.S. dollars). Not reflected in the table is the compensation paid to the current President and CEO, Frank Bakker, for two reasons: (1) Mr. Bakker was not appointed as President and CEO until January 16, 2023, which is outside the fiscal year 2022 disclosure requirement; and (2) although Mr. Bakker began serving as General Manager and Vice President — Alabama Graphite Products on October 10, 2022, he was not a named executive officer in fiscal year 2022 and his compensation paid in fiscal year 2022 was not among the two most highly compensated executive officers other than the CEO. Also not reflected in the table is the compensation paid our former CFO, Jeffrey L. Vigil, for one reason: (1) Mr. Vigil retired on August 26, 2022 and his compensation paid in fiscal year 2022, including compensation paid as a result of his retirement, does not place him among the two most highly compensated executive officers other than the CEO.

Position	Officer	Year	Salary Paid	RSU Stock Award (Grant date value)	Cash Bonus	Other Compensation <sup>(5)</sup>	Total
Chief Executive Officer & President . . . . .	Christopher M. Jones <sup>(1)</sup>	2022	51,431	—	—	20,780	72,211
		2021	334,300	250,725	206,848	8,391	800,265
Chief Executive Officer & President . . . . .	Chad M. Potter <sup>(2)</sup>	2022	281,548	313,750	—	31,123	626,421
		2021	38,462	221,667	34,356	106,404	400,889
Chief Financial Officer & VP – Finance . . . . .	Steven M. Cates <sup>(3)</sup>	2022	229,206	88,313	91,875	8,281	417,675
		2021	134,039	132,500	32,667	4,112	303,318
General Counsel & Corporate Secretary . . . . .	John W. Lawrence <sup>(4)</sup>	2022	224,342	212,500	99,375	57,595	593,812
		2021	—	—	—	302,400	302,400

- 
- (1) Mr. Jones served as CEO & President in 2021 and in 2022 until he retired on February 25, 2022.
- (2) Mr. Potter served as CEO & President from February 25, 2022, until he resigned on January 16, 2023. In addition, Mr. Potter served as Chief Operations Officer from August 2, 2021, until February 25, 2022.
- (3) Mr. Cates served as CFO & Vice President — Finance from August 26, 2022, and he is continuing in such service. In addition, Mr. Cates served as Chief Accounting Officer from May 10, 2021, until August 26, 2022.
- (4) Mr. Lawrence served as General Counsel & Corporate Secretary in 2021, 2022, and is continuing in such service. However, Mr. Lawrence transitioned from contractor status to an employee on February 26, 2022.



- (5) Other compensation includes, for all listed officers, Company paid life insurance and Company matching 401k contributions. In addition, Mr. Jones received a payout of his accrued and unused vacation in 2022 upon retirement of \$12,938, Mr. Potter received a truck allowance in 2022 of \$24,544 and \$10,384 in 2021 as well as relocation expenses in 2021 of \$93,237, and Mr. Lawrence received contractor income of \$50,400 in 2022 and \$302,400 in 2021 prior to transitioning to an employee effective February 26, 2022.

## 2022 Outstanding Equity Awards at Fiscal Year-End

The following table shows outstanding stock option awards classified as exercisable and unexercisable as of December 31, 2022, for the NEOs. The table also shows unvested and unearned stock awards and RSUs assuming a market value of \$0.79 per share, the closing market price of Westwater's stock on December 31, 2022.

Name	Option Awards				Stock Awards	
	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Exercise Price (\$)	Option Expiration Date	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested (\$)
Chad M. Potter <sup>(1)</sup>	—	—	—	—	285,833 <sup>(5)</sup>	225,808
John W. Lawrence	606 <sup>(2)</sup>	—	19.25	7/19/2028	170,321 <sup>(6)</sup>	134,554
	1,507 <sup>(3)</sup>	—	19.25	4/18/2028	—	—
Steven M. Cates	9,498 <sup>(4)</sup>	—	3.77	5/10/2031	96,894 <sup>(7)</sup>	76,546

(1) Mr. Potter resigned from the Company on January 16, 2023.

(2) Stock option vested July 19, 2019.

(3) Stock option vested April 18, 2019.

(4) Stock option vested May 10, 2021.

(5) In accordance with Mr. Potter's release agreement, 27,387 time-based shares vested upon his resignation date. The remaining 258,400 unvested RSUs were forfeited.

(6) 40,552 unvested RSUs relate to Mr. Lawrence's employment agreement effective February 26, 2022 and are eligible to vest equally over the next two years contingent on employment with the Company. 8,210 unvested RSUs relate to the 2020 LTI — Time RSUs, as further described on page 32, and are eligible to vest next year upon approval by the Compensation Committee, typically occurring in the first quarter of each calendar year. The remainder of the unvested RSUs relate to the 2022 LTI — Time, 2022 LTI — R&D Program and 2022 LTI — ISO Program, as further described on page 31, and are eligible to vest equally over the next three years upon approval by the Compensation Committee.

(7) 5,439 unvested RSUs relate to the 2020 LTI — Time, 2020 LTI — Performance and 2020 LTI — TSR, as further described on page 31, and are eligible to vest next year upon approval by the Compensation Committee, typically occurring in the first quarter of each calendar year. 10,434 unvested RSUs relate to the 2021 LTI — Time, 2021 LTI — Performance and 2021 LTI — TSR, as further described on page 31, and are eligible to vest equally over the next two years upon approval of the Compensation Committee. The remainder of the unvested RSUs relate to the 2022 LTI — Time, 2022 LTI — R&D Program and 2022 LTI — ISO Program, as further described on page 31, and are eligible to vest equally over the next three years upon approval by the Compensation Committee.

## Potential Payments Upon Termination or Change in Control

### *Employment Agreements as of December 31, 2022*

As of December 31, 2022, the Company has employment agreements with Messrs. Potter, Cates, and Lawrence, and those employment agreements provide that, in the event of a change of control (see below), if the executive is terminated without cause (as defined therein), demoted, or has their responsibilities materially

changed, or circumstances arise that constitute good reason (as defined therein), then the Company would pay severance in an amount equal to one year of base salary, in each case in a lump sum within 60 days after termination or termination of the agreement. If the Company otherwise terminates the executive, including following the disability of the executive, without cause, or fails to renew the employment agreement, or the executive otherwise terminates their employment for good reason, the Company would pay severance in an amount equal to one year of base salary in the case of Mr. Potter and six months of base salary in the case of Messrs. Cates and Lawrence, in each case in a lump sum within 30 days after the termination date. The employment agreements would automatically terminate upon the death of the executive.

The employment agreements for Messrs. Potter, Cates, and Lawrence define “change of control” as: (i) any person or group of affiliated or associated persons acquiring more than 50% of the voting power of the Company; (ii) the consummation of a sale of all or substantially all of the assets of the Company; (iii) the dissolution of the Company; (iv) a majority of the members of the Board are replaced during any 12 month period; or (v) the consummation of any merger, consolidation, or reorganization involving the Company in which, immediately after giving effect to such merger, consolidation or reorganization, less than 50.1% of the total voting power of outstanding stock of the surviving or resulting entity is then “beneficially owned” (within the meaning of Rule 13d-3 under the Exchange Act) in the aggregate by the stockholders of the Company immediately prior to such merger, consolidation or reorganization.

During fiscal year 2022, the Company also had employment agreements with Mr. Jones, former CEO, and with Mr. Vigil, former CFO. Mr. Jones retired from the Company on February 25, 2022. Mr. Vigil retired from the Company on August 26, 2022. Therefore, neither Mr. Jones nor Mr. Vigil are shown in the table below.

Although Mr. Potter is shown in the table below since he was serving as the Company’s CEO on December 31, 2022, Mr. Potter resigned from the Company on January 16, 2023.

On February 10, 2022, the Company signed an Executive Chairman Agreement with Terence J. Cryan, and thereunder Mr. Cryan agreed to serve as Westwater’s Executive Chairman effective February 26, 2022. See “*Employment Agreements*,” below. The Executive Chairman Agreement does not contain any provisions that would provide for payment upon termination or change of control.

#### *Equity Awards*

In addition, upon a change in control, any awards granted under the Company’s 2013 Omnibus Incentive Plan will immediately vest in full, to the extent not already vested, for all NEOs.

The Compensation Committee believes that the above-mentioned vesting and acceleration is appropriate on the basis that our NEOs should receive the full benefit of such awards in the event of a change in control.

The Compensation Committee believes the employment agreements summarized above are useful in recruiting and retaining executives, provide continuity of management in the event of an actual or threatened change in control, and provide the executives with the security to make decisions that are in the best long-term interest of the stockholders.

The following table shows the payments and benefits that would be made to those individuals who were serving as NEOs on December 31, 2022, assuming a qualifying termination following a change in control if that termination had occurred on December 31, 2022.

Name	Cash Severance	Equity Acceleration	Total Potential Payment
Chad M. Potter <sup>(1)</sup>	\$285,000	\$225,808	\$510,808
Steven M. Cates	\$245,000	\$ 76,546	\$321,546
John W. Lawrence	\$265,000	\$134,554	\$399,554

- (1) Mr. Potter resigned on January 16, 2023 — his retirement did not follow a change of control. He departed the Company with a cash severance of \$285,000, and with 27,387 shares of Company common stock accelerated at a value of \$29,030.

## **Delinquent Section 16(a) Reports**

Section 16(a) of the Exchange Act requires our directors and certain officers, and persons who own more than ten percent of any class of the Company's registered securities, to file, in their personal capacities, reports of ownership and changes in ownership on Forms 3, 4, and 5 with the SEC. Based solely on a review of Forms 3, 4 and 5, and amendments thereto, filed during or with respect to the applicable reporting period, and written representations from the applicable reporting persons, we believe all of our officers and directors have complied with all applicable filing requirements during the applicable reporting period hereof, except as follows.

On March 2, 2022, Mr. Lawrence filed one Form 4 one day late, reporting one transaction relating to his grant of restricted stock units that will vest in two equal installments beginning on February 26, 2023. Mr. Lawrence made good faith efforts to submit the filing on time, but he was unable to make the filing when due, on March 1, 2022, because of the SEC's delay in processing Mr. Lawrence's Form ID application. The Form ID filing was made on February 23, 2022, and, because of this processing delay, Mr. Lawrence was unable to obtain the EDGAR access codes necessary to make the Form 4 filing on March 1.

## **Employment Agreements**

### *Christopher M. Jones*

On March 12, 2013, the Company entered into an employment agreement with Mr. Jones in conjunction with his joining the Company as President and CEO. On February 25, 2022, Mr. Jones retired from the Company and his employment agreement was terminated. Even though Mr. Jones was not employed on December 31, 2022, his employment agreement must still be summarized here.

Under the now-terminated employment agreement, Mr. Jones was entitled to an annual base salary, which was set initially at \$275,000 and was subject to annual adjustment by the Compensation Committee, he had a targeted cash bonus equal to 60% of his base salary, and he was awarded 42 shares of the Company's restricted stock and an option to purchase 92 shares of common stock. The employment agreement also provided for potential payments in the event of a change of control (as defined therein), if Mr. Jones was terminated without cause (as defined therein), demoted or had his responsibilities materially changed, or circumstances arose that constituted good reason (as defined therein). See "Potential Payments Upon Termination or Change in Control" above. The employment agreement also contained customary confidentiality, non-competition and non-solicitation provisions.

### *Chad M. Potter*

On February 7, 2022, in conjunction with the then anticipated retirement of Mr. Jones as President and CEO effective February 25, 2022, Mr. Potter entered into an employment agreement as President and CEO that was to become effective February 26, 2022.

Pursuant to his employment agreement, Mr. Potter was entitled to an annual base salary, which was set initially at \$285,000 and was subject to annual adjustment by the Compensation Committee, had a targeted cash bonus equal to 60% of his base salary, had a targeted equity award of 75% of his base salary, and was awarded 100,000 of RSUs that would vest in equal parts of the first and second anniversary dates of the effective date of the employment agreement. The employment agreement also provided for potential payments in the event of a change of control (as defined therein), if Mr. Potter was terminated without cause (as defined therein), demoted, or had his responsibilities materially changed, or circumstances arise that constitute good reason (as defined therein). See "Potential Payments Upon Termination or Change in Control" above. The employment agreement also contained customary confidentiality, non-competition, and non-solicitation provisions.

On January 16, 2023, Mr. Potter resigned from the Company, and his employment agreement was terminated.

### *Jeffrey L. Vigil*

On June 11, 2013, the Company entered into an employment agreement with Mr. Vigil in conjunction with his joining the Company as Vice President — Finance and CFO. On August 26, 2022, Mr. Vigil retired

from the Company and his employment agreement was terminated. Even though Mr. Vigil was not employed on December 31, 2022, his employment agreement must still be summarized here.

Pursuant to the now-terminated employment agreement, Mr. Vigil was entitled to an annual base salary, which was set initially at \$200,000 and was subject to annual adjustment by the Compensation Committee, he had a targeted cash bonus equal to 30% of his base salary, and he was provided with a grant of 133 restricted stock units. The employment agreement also provided for potential payments in the event of a change of control (as defined therein), if Mr. Vigil was terminated without cause (as defined therein), demoted or had his responsibilities materially changed, or circumstances arose that constituted good reason (as defined therein). See “*Potential Payments Upon Termination or Change in Control*” above. The employment agreement also contained customary confidentiality, non-competition and non-solicitation provisions.

#### *Steven M. Cates*

On June 20, 2022, in conjunction with the then anticipated retirement of Mr. Vigil as Vice President — Finance and CFO that was to become effective on August 26, 2022, Mr. Cates entered into an employment agreement as Vice President — Finance and CFO that was to become effective August 26, 2022. Pursuant to his employment agreement, Mr. Cates is entitled to an annual base salary, which was set initially at \$245,000 and was subject to annual adjustment by the Compensation Committee, has a targeted cash bonus equal to 50% of his base salary and a targeted stock bonus equal to 50% of his base salary. The employment agreement also provides for potential payments in the event of a change of control (as defined therein), if Mr. Cates is terminated without cause (as defined therein), demoted or has his responsibilities materially changed, or circumstances arise that constitute good reason (as defined therein). See “*Potential Payments Upon Termination or Change in Control*” above. The employment agreement also contains customary confidentiality, non-competition and non-solicitation provisions.

#### *John W. Lawrence*

On February 21, 2022, the Company entered into an employment agreement with John Lawrence, to become effective February 26, 2022, in connection with his joining the Company as General Counsel and Corporate Secretary. Mr. Lawrence previously served in a contractual capacity as General Counsel of the Company since October 2012 and as Corporate Secretary of the Company since May 2013. Pursuant to his employment agreement, Mr. Lawrence is entitled to an annual base salary, which was set initially at \$265,000 and was subject to annual adjustment by the Compensation Committee, has a targeted cash bonus equal to 50% of his base salary and a targeted stock bonus equal to 50% of his base salary. The employment agreement also provided for a grant of \$80,000 of RSUs that would vest in equal parts of the first and second anniversary dates of the effective date of the employment agreement. The employment agreement also provides for potential payments in the event of a change of control (as defined therein), if Mr. Lawrence is terminated without cause (as defined therein), demoted or has his responsibilities materially changed, or circumstances arise that constitute good reason (as defined therein). See “*Potential Payments Upon Termination or Change in Control*” above. The employment agreement also contains customary confidentiality, non-competition and non-solicitation provisions.

#### *Other Agreements*

On February 10, 2022, also in conjunction with Mr. Jones’ retirement, Mr. Cryan entered into an Executive Chairman Agreement effective February 26, 2022. Pursuant to the Executive Chairman Agreement, Mr. Cryan will receive a salary of \$12,500 per month, in addition to any other amounts Mr. Cryan receives from the Company for his other positions with the Company (such as his roles as Director, Chairman of the Board of Directors, and member of the Safety and Sustainability Committee) pursuant to the existing fee structure for those positions that were previously determined by the Board of Directors of the Company, as an employee of the Company. See “*Director Compensation*” on page 16. Mr. Cryan or the Company may terminate the Executive Chairman Agreement at any time upon 60 days’ notice, and the Company upon such termination will only be obligated to pay Mr. Cryan the compensation and expenses due up to the date of the termination. The Executive Chairman Agreement also contains customary confidentiality, non-competition, and non-solicitation provisions.

On January 16, 2023, Mr. Bakker was appointed as the Company's current President & CEO and he executed an employment agreement with the Company. Mr. Bakker's employment agreement with the Company was disclosed by an 8-K that was filed on January 17, 2023.

#### **ADVISORY APPROVAL OF COMPENSATION OF THE NAMED EXECUTIVE OFFICERS**

In accordance with Section 14A of the Exchange Act, the Company is asking stockholders to approve an advisory resolution on the compensation of our named executive officers as described in the Compensation Discussion and Analysis, the compensation tables and related narrative discussion included in this Proxy Statement. This proposal, commonly known as a "say-on-pay" proposal, gives stockholders the opportunity to approve, reject or abstain from voting with respect to our executive compensation programs and policies and the compensation paid to the named executive officers. This vote is not intended to address any specific item of compensation, but rather the overall compensation of our named executive officers as described in this Proxy Statement.

As described in detail previously under the heading "Compensation Discussion and Analysis" and in the sections that follow thereafter, and in the compensation tables and narrative disclosures that accompany the compensation tables, the Company's compensation program for the named executive officers is designed to reward exceptional organizational and individual performance. The primary objectives of our compensation program are to (i) enhance the Company's ability to attract and retain knowledgeable and experienced senior executives, (ii) drive and reward performance which supports Westwater's core values, (iii) provide a percentage of total compensation that is "at-risk", or variable, based on predetermined performance criteria, (iv) require significant stock holdings to align the interests of our executive officers with those of stockholders, and (v) set compensation and incentive levels that reflect competitive market practices.

Although the vote on this proposal is advisory only, the Board and the Compensation Committee will review and consider the voting results when evaluating our executive compensation program.

**THE BOARD UNANIMOUSLY RECOMMENDS A VOTE "FOR" APPROVAL OF THE COMPENSATION OF OUR NAMED EXECUTIVE OFFICERS.**

## **PROPOSAL 4**

### **ADVISORY VOTE ON THE FREQUENCY OF FUTURE ADVISORY VOTES ON EXECUTIVE COMPENSATION**

In accordance with Section 14A of the Exchange Act, we are asking our stockholders to indicate their preference for how frequently the Company should seek advisory approval of our named executive officer compensation, including the “say-on-pay” vote included in Proposal No. 3 above. By voting on this Proposal No. 4, stockholders may indicate whether they would prefer an advisory vote on our named executive officer compensation once every one, once every two years, or once every three years.

The Company has held annual say-on-pay votes starting with the 2011 annual meeting. The Board continues to believe that an advisory vote on our executive compensation every year is most appropriate and recommends stockholders approve an annual advisory vote on named executive officer compensation. Holding an annual advisory vote on executive compensation allows stockholders to provide timely input on our compensation philosophy, policies and practices and provides a direct and simple means to express investor sentiment regarding our executive compensation program.

Stockholders should understand they are not voting “for” or “against” a recommendation of the Board. Rather, stockholders are asked to choose whether future advisory votes on named executive officer compensation should be held every one, every two or every three years. Stockholders may also abstain from voting. This vote is advisory and not binding on the Board or the Company and the final decision on the frequency of future advisory votes on named executive compensation remains with the Board. The Board values the opinions expressed by our stockholders through their votes and will carefully consider the outcome of the vote when making future decisions regarding the frequency of future advisory votes on named executive compensation.

**THE BOARD UNANIMOUSLY RECOMMENDS A VOTE TO HOLD FUTURE ADVISORY VOTES ON OUR EXECUTIVE COMPENSATION ONCE EVERY YEAR.**

## PROPOSAL 5

### RATIFICATION OF THE APPOINTMENT OF THE INDEPENDENT REGISTERED PUBLIC ACCOUNTANTS

The Board has unanimously appointed Moss Adams LLP to be Westwater's independent registered public accountants for the year ending December 31, 2023 and has further directed that management submit the appointment of our independent registered public accountants for ratification by the stockholders at the 2023 Annual Meeting. In recommending ratification by the stockholders of such appointment, the Board is acting upon the recommendation of the Audit Committee, which has satisfied itself as to the firm's professional competence and standing.

Ratification of the appointment of Moss Adams LLP by the stockholders is not required by law. As a matter of policy, however, such appointment is being submitted to the stockholders for ratification at the 2023 Annual Meeting because the Audit Committee and the Board believe this to be a good corporate practice. The persons designated in the enclosed proxy will vote your shares "**FOR**" ratification unless you include instruction in your signed proxy to the contrary. If the stockholders fail to ratify the appointment of this firm, the Board will reconsider the matter.

Representatives of Moss Adams LLP are expected to participate in the Annual Meeting to answer appropriate questions from the stockholders. None of Westwater's directors or executive officers has any substantial interest, direct or indirect, in Moss Adams LLP.

**THE BOARD UNANIMOUSLY RECOMMENDS A VOTE "FOR" THE RATIFICATION OF THE APPOINTMENT OF MOSS ADAMS LLP AS INDEPENDENT REGISTERED PUBLIC ACCOUNTANTS OF WESTWATER FOR FISCAL YEAR 2023.**

#### Audit and Non-Audit Fees

The following table presents fees billed for professional audit services rendered by Moss Adams LLP for the audit of Westwater's annual financial statements for 2022 and 2021.

	2022	2021
Audit fees <sup>(1)</sup> . . . . .	\$261,675	\$224,005
Audit-related fees . . . . .	—	—
Tax fees . . . . .	—	—
All other fees . . . . .	—	—

- 
- (1) Audit fees include fees for the audits of the Company's consolidated financial statements and for services that are usually provided by an auditor in connection with statutory and regulatory filings and engagements.

#### Audit Committee Pre-Approval Policies and Procedures

The Audit Committee is required to pre-approve the audit and non-audit services performed by the independent auditor to assure that the provision of such services does not impair the auditor's independence. All of the foregoing services were pre-approved by the Audit Committee.

## OWNERSHIP OF WESTWATER COMMON STOCK

The table below sets forth information, as of March 13, 2023, regarding the beneficial ownership (as defined by Rule 13d-3(d)(1) under the Exchange Act) of our common stock by each of our directors and named executive officers, and all directors and executive officers as a group. To the Company's knowledge, no person or group beneficially owns more than five percent of our common stock.

In accordance with applicable rules of the SEC, beneficial ownership includes voting or investment power with respect to securities and includes the shares issuable pursuant to stock options that are exercisable, and shares subject to restricted stock units that vest, on, or within 60 days after March 13, 2023. Shares issuable pursuant to the exercise of stock options, and restricted stock units that vest, on, or within 60 days after March 13, 2023, are deemed outstanding for the purpose of computing the ownership percentage of the person holding such options, or shares subject to restricted stock units, but are not deemed outstanding for computing the ownership percentage of any other person. The percentage of beneficial ownership for the following table is based on 49,999,759 shares of common stock outstanding as of March 13, 2023. All officers and directors can be reached at the Company's corporate office address of 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112.

Name of Individual or Group	Number of Shares of Common Stock Beneficially Owned <sup>(1)</sup>	Percent of Class
Terence J. Cryan . . . . .	209,528	*
Tracy D. Pagliara . . . . .	117,873	*
Karli S. Anderson . . . . .	52,707	*
Deborah A. Peacock . . . . .	302,327	*
Frank Bakker . . . . .	2,000	*
John W. Lawrence . . . . .	65,599	*
Steven M. Cates . . . . .	41,025	*
All current directors and executive officers as a group (7 persons) . . .	791,059	1.6%

\* Represents less than 1%.

- (1) Includes the following shares that directors and executive officers have the right to acquire on March 13, 2023, or within 60 days thereafter, through the exercise of stock options and issuance of stock for vested restricted stock units: Mr. Cryan, 186,927 shares; Mr. Pagliara, 116,927 shares; Ms. Anderson, 52,707 shares; Ms. Peacock, 116,927 shares; Mr. Lawrence, 2,113 shares; and Mr. Cates, 9,498. Except as otherwise noted, the directors and executive officers exercise sole voting and investment power over their shares shown in the table and none of the share are subject to pledge. Except for 840 shares held by Mr. Lawrence's spouse, the directors, director nominees and executive officers exercise sole voting and investment power over their shares shown in the table and none of the shares are subject to pledge.

### Other Business

The Board knows of no other matters to be brought before the Annual Meeting. However, if other matters should come before the Annual Meeting, it is the intention of each person named in the proxy to vote such proxy in accordance with his or her own judgment on such matters.

### Delivery of Stockholder Documents; Housekeeping

The SEC has adopted rules that permit companies and intermediaries (e.g., brokers) to satisfy the delivery requirements for proxy statements and annual reports with respect to two or more stockholders sharing the same address by delivering a single proxy statement and annual report addressed to those stockholders. This process, which is commonly referred to as "householding," potentially means extra convenience for stockholders and cost savings for companies.

A number of brokers with account holders who are Westwater stockholders may be householding our proxy materials, to the extent such stockholders have given their prior express or implied consent in accordance



with SEC rules. A single proxy statement and annual report will be delivered to multiple stockholders sharing an address unless contrary instructions have been received from the affected stockholders. Once you have received notice from your broker that it will be householding communications to your address, householding will continue until you are notified otherwise or until you revoke your consent, which is deemed to be given unless you inform the broker otherwise when you receive the original notice of householding. If, at any time, you no longer wish to participate in householding and would prefer to receive separate proxy materials, please notify your broker to discontinue householding and direct your written request to receive a separate proxy statement and annual report to: Westwater Resources, Inc., Attention: Corporate Secretary, 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112, or by calling (303) 531-0516, and we will promptly deliver a separate proxy statement and annual report per your request. Stockholders who currently receive multiple copies of the proxy materials at their address and would like to request householding of their communications should contact their broker.

### **Solicitation of Proxies; Payment of Solicitation Expenses**

The Company is providing these proxy materials in connection with the solicitation by its Board of Directors of proxies to be voted at our Annual Meeting. The Company has retained Morrow Sodali as its proxy solicitor and will pay Morrow Sodali approximately \$20,000. The Company will bear all expenses incurred in connection with the solicitations of proxies. In addition to the solicitation of proxies by mail, the Company may ask brokers and bank nominees to solicit proxies from their principals and will pay the brokers and bank nominees their expenses for the solicitation. The Company's directors, officers and employees also may solicit proxies by mail, telephone, electronic or facsimile transmission or in person.

### **Adjournments and Postponements**

Although it is not currently expected, the meeting may be adjourned on one or more occasions for the purpose of soliciting additional proxies if a quorum is not present at the meeting. An adjournment generally may be made with the affirmative vote of the owners of a majority of the shares of our common stock present in person or represented by proxy and entitled to vote thereon if no quorum is present or, if a quorum is present, with the majority of the votes cast. Any adjournment of the meeting for the purpose of soliciting additional proxies will allow our stockholders who have already sent in their proxies to revoke them at any time prior to their use at the meeting as adjourned.

### **Future Stockholder Proposals**

Stockholders interested in submitting a proposal for inclusion in Westwater's proxy statement and form of proxy for the annual meeting to be held in 2024 (the "2024 Annual Meeting"), may do so by following the procedures set forth in Rule 14a-8 under the Exchange Act. Rule 14a-8 addresses when we must include a stockholder proposal in our proxy materials, including eligibility and procedural requirements that apply to the proponent. To be eligible for inclusion in our proxy materials, stockholder proposals must be received at our principal executive offices, addressed to the Corporate Secretary, no later than November 21, 2023, which is 120 calendar days before the anniversary of the date this proxy statement for the 2023 Annual Meeting is first distributed to stockholders. However, if the date of the 2024 Annual Meeting has been changed by more than 30 days from the anniversary date of the 2023 Annual Meeting, then the deadline is a reasonable time before the Company begins to print and send its proxy materials.

All stockholder proposals (including any director nomination) must comply with the notice requirements contained in our Bylaws, which requires, among other things: detailed information concerning the stockholder making the proposal (and the beneficial owner on whose behalf the proposal is made, if any); the nature of the business being proposed; specific information concerning such stockholder's interests in our securities; and a description of any agreement, arrangement or understanding with respect to the proposal between or among such stockholder and such beneficial owner. In addition, for director nominations, the notice must include, among other things: the recommended director nominee's name, biographical data, and qualifications; specific information concerning such nominee's interests in our securities; and a written commitment by any proposed nominee to serve the full term if nominated and elected. Any stockholder proposal or director nomination submitted to us for consideration at the 2024 Annual Meeting but which is not required to be included in the related proxy statement and form of proxy, must be received between 90 days and 120 days prior to May 10,

2024, which is the first anniversary of the 2023 Annual Meeting (no earlier than January 11, 2024, and no later than February 10, 2024 for the 2024 Annual Meeting), except that if the date of the 2024 Annual Meeting is more than 30 days before or more than 70 days after such anniversary, we must receive the proposal not earlier than the close of business on the 120<sup>th</sup> day prior to the 2024 Annual Meeting and not later than the close of business on the later of 90<sup>th</sup> day prior to the 2024 Annual Meeting date or the 10<sup>th</sup> day following the date on which public announcement of the 2024 Annual Meeting is first made; otherwise, the proposal will be considered by us to be untimely and not properly brought before the meeting.

In addition to satisfying the requirements under our Bylaws with respect to advance notice of any director nomination, any stockholder who intends to solicit proxies in support of director nominees other than the Company's nominees in accordance with Rule 14a-19 must provide the required notice of intent to solicit proxies to our Corporate Secretary no later than 60 calendar days prior to the first anniversary of the date of the 2023 Annual Meeting (no later than March 11, 2024 for the 2024 Annual Meeting of Stockholders).

Stockholders who wish to submit a proposal or a director nominee must meet the eligibility requirements of the SEC and comply with the requirements of our Bylaws and the SEC. In addition, pursuant to the rules and regulations of the SEC, the persons appointed as proxies for the annual meeting to be held in 2024 will have discretionary authority to vote any proxies they hold at such meeting on any matter for which Westwater has not received notice by 45 days prior to the anniversary date on which this proxy statement for the 2023 Annual Meeting is mailed to Westwater stockholders.

#### **Annual Report to Stockholders**

We have mailed this proxy statement to each stockholder entitled to vote at the Annual Meeting. A copy of our 2022 Annual Report to Stockholders accompanies this proxy statement. You may obtain, at no charge, additional copies of our 2022 Annual Report to Stockholders, which includes our Annual Report on Form 10-K for the year ended December 31, 2022, by sending us a written request at Westwater Resources, Inc., Attention: Corporate Secretary, 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112, or by calling (303) 531-0516.

FIFTH AMENDMENT TO  
WESTWATER RESOURCES, INC.  
2013 OMNIBUS INCENTIVE PLAN

In accordance with those certain resolutions adopted by the Board of Directors of Westwater Resources, Inc., a Delaware corporation (the “**Corporation**”), and the Board of Directors’ Compensation Committee and the approval by the stockholders of the Corporation at the Corporation’s 2022 Annual Meeting of Stockholders held on May 10, 2022 (see Item 2 below), and the approval of the stockholders of the Corporation at the Corporation’s 2023 Annual Meeting of Shareholders to be held on May 10, 2023 (see Item 1 below), the 2013 Omnibus Incentive Plan (the “**Plan**”) of the Corporation is hereby amended as follows:

1. Section 4.1 of the Plan is hereby amended and restated in its entirety to increase the number of shares reserved for issuance under the Plan by 1,500,000 shares, as follows:

**“4.1 Number of Shares of Stock Available for Awards.**

Subject to such additional shares of Stock as shall be available for Awards under the Plan pursuant to **Section 4.2**, and subject to adjustment pursuant to **Section 17.1**, the maximum number of shares of Stock available for Awards under the Plan shall be equal to the sum of (x) 3,437,666 shares of Stock plus (y) the number of shares of Stock available for awards under the Prior Plans as of the Effective Date plus (z) the number of shares of Stock related to awards outstanding under the Prior Plans as of the Effective Date which thereafter terminate by expiration, forfeiture, cancellation, or otherwise without the issuance of such shares. Such shares of Stock may be authorized and unissued shares of Stock or treasury shares of Stock or any combination of the foregoing, as may be determined from time to time by the Board or by the Committee. Any of the shares of Stock available for Awards under the Plan may be used for any type of Award under the Plan, and any or all of the shares of Stock available for Awards under the Plan shall be available for Awards pursuant to Incentive Stock Options.”

2. Section 5.2 of the Plan is hereby amended and restated in its entirety to extend the date of termination of the Plan by 5 years to a total of 15 years, as follows:

**“5.2 Term.**

The Plan shall terminate automatically fifteen (15) years after the Effective Date and may be terminated on any earlier date as provided in Section 5.3.

3. Unless otherwise expressly provided for in this Fifth Amendment to the Plan (the “**Fifth Amendment**”), all capitalized words, phrases, or defined terms used in this Fifth Amendment will have the same meaning ascribed to them in the Plan.

4. Except as expressly set forth in this Fifth Amendment, there have been no other changes or modifications to the Plan, and the plan remains otherwise unchanged and in full force and effect.

5. This Fifth Amendment shall be effective as of [                      ], 2023.

[This Page Intentionally Left Blank]

WESTWATER RESOURCES, INC  
2013 OMNIBUS INCENTIVE PLAN  
AS AMENDED

Westwater Resources, Inc. (the “**Company**”) sets forth herein the terms of its 2013 Omnibus Incentive Plan (the “**Plan**”), as follows:

**1. PURPOSE**

The Plan is intended to (a) provide eligible persons with an incentive to contribute to the success of the Company and to operate and manage the Company’s business in a manner that will provide for the Company’s long-term growth and profitability to benefit its stockholders and other important stakeholders, including its employees and customers, and (b) provide a means of obtaining, rewarding and retaining key personnel. To this end, the Plan provides for the grant of awards of stock options, stock appreciation rights, restricted stock, stock units, unrestricted stock, dividend equivalent rights, performance shares and other performance-based awards, other equity-based awards, and cash bonus awards. Any of these awards may, but need not, be made as performance incentives to reward the holders of such awards for the achievement of performance goals in accordance with the terms of the Plan. Stock options granted under the Plan may be non-qualified stock options or incentive stock options, as provided herein.

**2. DEFINITIONS**

For purposes of interpreting the Plan documents (including the Plan and Award Agreements), the following definitions shall apply:

2.1 “**Affiliate**” means any company or other entity that controls, is controlled by or is under common control with the Company within the meaning of Rule 405 of Regulation C under the Securities Act, including any Subsidiary. For purposes of grants of Options or Stock Appreciation Rights, an entity may not be considered an Affiliate unless the Company holds a “controlling interest” in such entity within the meaning of Treasury Regulation Section 1.414(c)-2(b)(2)(i), provided that (a) except as specified in clause (b) below, an interest of “at least 50 percent” shall be used instead of an interest of “at least 80 percent” in each case where “at least 80 percent” appears in Treasury Regulation Section 1.414(c)-2(b)(2)(i) and (b) where the grant of Options or Stock Appreciation Rights is based upon a legitimate business criterion, an interest of “at least 20 percent” shall be used instead of an interest of “at least 80 percent” in each case where “at least 80 percent” appears in Treasury Regulation Section 1.414(c)-2(b)(2)(i).

2.2 “**Applicable Laws**” means the legal requirements relating to the Plan and the Awards under (a) applicable provisions of the corporate, securities, tax and other laws, rules, regulations and government orders of any jurisdiction applicable to Awards granted to residents therein and (b) the rules of any Stock Exchange on which the Stock is listed.

2.3 “**Award**” means a grant under the Plan of an Option, a Stock Appreciation Right, Restricted Stock, a Stock Unit, Unrestricted Stock, a Dividend Equivalent Right, a Performance Share or other Performance-Based Award, an Other Equity-Based Award, or cash.

2.4 “**Award Agreement**” means the agreement between the Company and a Grantee that evidences and sets out the terms and conditions of an Award.

2.5 “**Award Stock**” shall have the meaning set forth in **Section 17.3(a)(ii)**.

2.6 “**Benefit Arrangement**” shall have the meaning set forth in **Section 15**.

2.7 “**Board**” means the Board of Directors of the Company.

2.8 “**Cause**” means, with respect to any Grantee, as determined by the Committee and unless otherwise provided in an applicable agreement between such Grantee and the Company or an Affiliate, (a) gross negligence or willful misconduct in connection with the performance of duties; (b) conviction of a criminal offense (other than minor traffic offenses); or (c) material breach of any term of any employment, consulting or other services, confidentiality, intellectual property or non-competition agreements, if any, between such

Grantee and the Company or an Affiliate. Any determination by the Committee whether an event constituting Cause shall have occurred shall be final, binding and conclusive.

2.9 **“Capital Stock”** means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) in equity of such Person, whether outstanding on the Effective Date or issued thereafter, including, without limitation, all common stock, par value \$.001 per share, of the Company.

2.10 **“Change in Control”** means the occurrence of any of the following:

- (a) *a “Person” or “group” (within the meaning of Sections 13(d) and 14(d)(2) of the Exchange Act), other than the Existing Stockholders, becomes the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act) of more than fifty percent (50%) of the total voting power of the Voting Stock of the Company, on a Fully Diluted Basis;*
- (b) *individuals who on the Effective Date constitute the Board (together with any new Directors whose election by such Board or whose nomination by such Board for election by the stockholders of the Company was approved by a vote of at least a majority of the members of such Board then in office who either were members of such Board on the Effective Date or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the members of such Board then in office;*
- (c) *the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Company, other than any such transaction in which the holders of securities that represented one hundred percent (100%) of the Voting Stock of the Company immediately prior to such transaction (or other securities into which such securities are converted as part of such merger or consolidation transaction) own directly or indirectly at least a majority of the voting power of the Voting Stock of the surviving Person in such merger or consolidation transaction immediately after such transaction; or*
- (d) *there is consummated any direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one transaction or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any “Person” or “group” (within the meaning of Sections 13(d) and 14(d)(2) of the Exchange Act).*

2.11 **“Code”** means the Internal Revenue Code of 1986, as amended, as now in effect or as hereafter amended, and any successor thereto. References in the Plan to any Code Section shall be deemed to include, as applicable, regulations promulgated under such Code Section.

2.12 **“Committee”** means the Compensation Committee of the Board.

2.13 **“Company”** means Westwater Resources, Inc.

2.14 **“Covered Employee”** means a Grantee who is a “covered employee” within the meaning of Code Section 162(m)(3).

2.15 **“Disability”** means the inability of a Grantee to perform each of the essential duties of such Grantee’s position by reason of a medically determinable physical or mental impairment which is potentially permanent in character or which can be expected to last for a continuous period of not less than 12 months; provided that, with respect to rules regarding expiration of an Incentive Stock Option following termination of a Grantee’s Service, Disability shall mean the inability of such Grantee to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

2.16 **“Dividend Equivalent Right”** means a right, granted to a Grantee pursuant to **Section 13**, to receive cash, Stock, other Awards or other property equal in value to dividends or other periodic payments paid or made with respect to a specified number of shares of Stock.

2.17 **“Employee”** means, as of any date of determination, an employee (including an officer) of the Company or an Affiliate.

2.18 “**Effective Date**” means June 4, 2013, the date on which the Plan was approved by the Company’s stockholders.

2.19 “**Exchange Act**” means the Securities Exchange Act of 1934, as amended, as now in effect or as hereafter amended.

2.20 “**Existing Stockholders**” means Resource Capital Fund V L.P. and RMB Australia Holdings Limited.

2.21 “**Fair Market Value**” means the fair market value of a share of Stock for purposes of the Plan, which shall be determined as of any Grant Date as follows:

- (a) *If on such Grant Date the shares of Stock are listed on a Stock Exchange, or are publicly traded on another established securities market (a “**Securities Market**”), the Fair Market Value of a share of Stock shall be the closing price of the Stock as reported on such Stock Exchange or such Securities Market (provided that, if there is more than one such Stock Exchange or Securities Market, the Committee shall designate the appropriate Stock Exchange or Securities Market for purposes of the Fair Market Value determination). If there is no such reported closing price on such Grant Date, the Fair Market Value of a share of Stock shall be the closing price of the Stock on the next preceding day on which any sale of Stock shall have been reported on such Stock Exchange or such Securities Market.*
- (b) *If on such Grant Date the shares of Stock are not listed on a Stock Exchange or publicly traded on a Securities Market, the Fair Market Value of a share of Stock shall be the value of the Stock as determined by the Committee by the reasonable application of a reasonable valuation method, in a manner consistent with Code Section 409A.*

Notwithstanding this **Section 2.21** or **Section 18.3**, for purposes of determining taxable income and the amount of the related tax withholding obligation pursuant to **Section 18.3**, the Fair Market Value will be determined by the Company using any reasonable method; *provided*, further, that for any shares of Stock subject to an Award that are sold by or on behalf of a Grantee on the same date on which such shares may first be sold pursuant to the terms of the related Award Agreement, the Fair Market Value of such shares shall be the sale price of such shares on such date (or if sales of such shares are effectuated at more than one sale price, the weighted average sale price of such shares on such date).

2.22 “**Family Member**” means, with respect to any Grantee as of any date of determination, (a) a person who is a spouse, former spouse, child, stepchild, grandchild, parent, stepparent, grandparent, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law, or sister-in-law, including adoptive relationships, of such Grantee, (b) any person sharing such Grantee’s household (other than a tenant or employee), (c) a trust in which any one or more of the persons specified in clauses (a) and (b) above (and such Grantee) own more than fifty percent (50%) of the beneficial interest, (d) a foundation in which any one or more of the persons specified in clauses (a) and (b) above (and such Grantee) control the management of assets, and (e) any other entity in which one or more of the persons specified in clauses (a) and (b) above (and such Grantee) own more than fifty percent (50%) of the voting interests.

2.23 “**Fully Diluted Basis**” means, as of any date of determination, the sum of (x) the number of shares of Voting Stock outstanding as of such date of determination plus (y) the number of shares of Voting Stock issuable upon the exercise, conversion or exchange of all then-outstanding warrants, options, convertible Capital Stock or indebtedness, exchangeable Capital Stock or indebtedness, or other rights exercisable for or convertible or exchangeable into, directly or indirectly, shares of Voting Stock, whether at the time of issue or upon the passage of time or upon the occurrence of some future event, and whether or not in the money as of such date of determination.

2.24 “**Grant Date**” means, as determined by the Committee, the latest to occur of (a) the date as of which the Committee approves the Award, (b) the date on which the recipient of an Award first becomes eligible to receive an Award under **Section 6** hereof (e.g., in the case of a new hire, the first date on which such new hire performs any Service), or (c) such subsequent date specified by the Committee in the corporate action approving the Award.

2.25 “**Grantee**” means a person who receives or holds an Award under the Plan.

2.26 **“Incentive Stock Option”** means an “incentive stock option” within the meaning of Code Section 422, or the corresponding provision of any subsequently enacted tax statute, as amended from time to time.

2.27 **“Non-qualified Stock Option”** means an Option that is not an Incentive Stock Option.

2.28 **“Option”** means an option to purchase one or more shares of Stock pursuant to the Plan.

2.29 **“Option Price”** means the exercise price for each share of Stock subject to an Option.

2.30 **“Other Agreement”** shall have the meaning set forth in **Section 15**.

2.31 **“Other Equity-Based Award”** means an Award representing a right or other interest that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Stock, other than an Option, a Stock Appreciation Right, Restricted Stock, a Stock Unit, Unrestricted Stock, a Dividend Equivalent Right or a Performance Share.

2.32 **“Outside Director”** means a member of the Board who is not an Employee.

2.33 **“Parachute Payment”** shall have the meaning set forth in **Section 15(a)**.

2.34 **“Performance-Based Award”** means an Award of Options, Stock Appreciation Rights, Restricted Stock, Stock Units, Performance Shares, Other Equity-Based Awards or cash made subject to the achievement of performance goals (as provided in **Section 14**) over a Performance Period specified by the Committee.

2.35 **“Performance-Based Compensation”** means compensation under an Award that is intended to satisfy the requirements of Code Section 162(m) for “qualified performance-based compensation” paid to Covered Employees. Notwithstanding the foregoing, nothing in the Plan shall be construed to mean that an Award which does not satisfy the requirements for “qualified performance-based compensation” within the meaning of and pursuant to Code Section 162(m) does not constitute performance-based compensation for other purposes, including the purposes of Code Section 409A.

2.36 **“Performance Measures”** means measures as specified in **Section 14.6.4** on which the performance goals under Performance-Based Awards are based and which are approved by the Company’s stockholders pursuant to, and to the extent required by, the Plan in order to qualify such Performance-Based Awards as Performance-Based Compensation.

2.37 **“Performance Period”** means the period of time during which the performance goals under Performance-Based Awards must be met in order to determine the degree of payout and/or vesting with respect to any such Performance-Based Awards.

2.38 **“Performance Shares”** means a Performance-Based Award representing a right or other interest that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Stock, made subject to the achievement of performance goals (as provided in **Section 14**) over a Performance Period of up to ten (10) years.

2.39 **“Person”** means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

2.40 **“Plan”** means this 2013 Omnibus Incentive Plan, as amended from time to time.

2.41 **“Prior Plans”** means the Company’s Amended and Restated 1995 Stock Incentive Plan, the 2004 Stock Incentive Plan, the Amended and Restated 2004 Directors’ Stock Option and Restricted Stock Plan, and the 2007 Restricted Stock Plan.

2.42 **“Reporting Person”** means a person who is required to file reports under Section 16(a) of the Exchange Act, or any successor provision.

2.43 **“Restricted Period”** shall have the meaning set forth in **Section 10.2**.

2.44 **“Restricted Stock”** means shares of Stock awarded to a Grantee pursuant to **Section 10**.



2.45 “**SAR Price**” shall have the meaning set forth in **Section 9.1**.

2.46 “**Securities Act**” means the Securities Act of 1933, as amended, as now in effect or as hereafter amended.

2.47 “**Service**” means service qualifying a Grantee as a Service Provider to the Company or an Affiliate. Unless otherwise provided in the applicable Award Agreement, a Grantee’s change in position or duties shall not result in interrupted or terminated Service, so long as such Grantee continues to be a Service Provider to the Company or an Affiliate. Subject to the preceding sentence, any determination by the Committee whether a termination of Service shall have occurred for purposes of the Plan shall be final, binding and conclusive. If a Service Provider’s employment or other service relationship is with an Affiliate and the applicable entity ceases to be an Affiliate, a termination of Service shall be deemed to have occurred when such entity ceases to be an Affiliate unless the Service Provider transfers his or her employment or other service relationship to the Company or any other Affiliate.

2.48 “**Service Provider**” means an Employee, officer, or director of the Company or an Affiliate, or a consultant or adviser (who is a natural person) to the Company or an Affiliate currently providing services to the Company or an Affiliate.

2.49 “**Stock**” means the common stock, par value \$0.001 per share, of the Company, or any security which shares of Stock may be changed into or for which shares of Stock may be exchanged as provided in **Section 17.1**.

2.50 “**Stock Appreciation Right**” or “**SAR**” means a right granted to a Grantee pursuant to **Section 9**.

2.51 “**Stock Exchange**” means The NASDAQ Stock Exchange LLC or another established national or regional stock exchange on which the Company’s equity securities may be listed.

2.52 “**Stock Unit**” means a bookkeeping entry representing the equivalent of one (1) share of Stock awarded to a Grantee pursuant to **Section 10** that (a) is not subject to vesting or (b) is subject to time-based vesting, but not to performance-based vesting. A Stock Unit may also be referred to as a restricted stock unit.

2.53 “**Subsidiary**” means any corporation (other than the Company) or non-corporate entity with respect to which the Company owns, directly or indirectly, fifty percent (50%) or more of the total combined voting power of all classes of stock, membership interests or other ownership interests of any class or kind ordinarily having the power to vote for the directors, managers or other voting members of the governing body of such corporation or non-corporate entity. In addition, any other entity may be designated by the Committee as a Subsidiary, provided that (a) such entity could be considered as a subsidiary according to generally accepted accounting principles in the United States of America, and (b) in the case of an Award of Options or Stock Appreciation Rights, such Award would be considered to be granted in respect of “service recipient stock” under Code Section 409A.

2.54 “**Substitute Award**” means an Award granted upon assumption of, or in substitution for, outstanding awards previously granted under a compensatory plan by a business entity acquired or to be acquired by the Company or an Affiliate or with which the Company or an Affiliate has combined or will combine.

2.55 “**Ten Percent Stockholder**” means a natural person who owns more than ten percent (10%) of the total combined voting power of all classes of outstanding voting securities of the Company, the Company’s parent (if any) or any of the Company’s Subsidiaries. In determining stock ownership, the attribution rules of Code Section 424(d) shall be applied.

2.56 “**Unrestricted Stock**” shall have the meaning set forth in **Section 11**.

2.57 “**Voting Stock**” means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

### **3. ADMINISTRATION OF THE PLAN**

#### **3.1 Committee.**

##### **3.1.1 Powers and Authorities.**

The Committee shall administer the Plan and shall have such powers and authorities related to the administration of the Plan as are consistent with the Company's certificate of incorporation and bylaws and Applicable Laws. Without limiting the generality of the foregoing, the Committee shall have full power and authority to take all actions and to make all determinations required or provided for under the Plan, any Award or any Award Agreement, and shall have full power and authority to take all such other actions and make all such other determinations not inconsistent with the specific terms and provisions of the Plan which the Committee deems to be necessary or appropriate to the administration of the Plan, any Award or any Award Agreement. All such actions and determinations shall be made by (a) the affirmative vote of a majority of the members of the Committee present at a meeting at which a quorum is present, or (b) the unanimous consent of the members of the Committee executed in writing in accordance with the Company's certificate of incorporation and bylaws and Applicable Laws. Unless otherwise expressly determined by the Board, the Committee shall have the authority to interpret and construe all provisions of the Plan, any Award and any Award Agreement, and any such interpretation or construction, and any other determination contemplated to be made under the Plan or any Award Agreement, by the Committee shall be final, binding and conclusive whether or not expressly provided for in any provision of the Plan, such Award or such Award Agreement.

In the event that the Plan, any Award or any Award Agreement provides for any action to be taken by the Board or any determination to be made by the Board, such action may be taken or such determination may be made by the Committee constituted in accordance with this **Section 3.1** if the Board has delegated the power and authority to do so to such Committee.

##### **3.1.2 Composition of Committee.**

The Committee shall be a committee composed of not fewer than two directors of the Company designated by the Board to administer the Plan. Each member of the Committee shall be a "Non-Employee Director" within the meaning of Rule 16b-3 under the Exchange Act, an "outside director" within the meaning of Code Section 162(m)(4)(C)(i) and, for so long as the Stock is listed on The NASDAQ Stock Exchange LLC, an "independent director" within the meaning of NASDAQ Listing Rule 5605(a)(2) (or, in each case, any successor term or provision); *provided* that any action taken by the Committee shall be valid and effective whether or not members of the Committee at the time of such action are later determined not to have satisfied the requirements for membership set forth in this **Section 3.1.2** or otherwise provided in any charter of the Committee. Without limiting the generality of the foregoing, the Committee may be the Compensation Committee of the Board or a subcommittee thereof if the Compensation Committee of the Board or such subcommittee satisfies the foregoing requirements.

##### **3.1.3 Other Committees.**

The Board also may appoint one or more committees of the Board, each composed of one or more directors of the Company who need not be Outside Directors, which may administer the Plan with respect to Grantees who are not "officers" as defined in Rule 16a-1(f) under the Exchange Act or directors of the Company, may grant Awards under the Plan to such Grantees, and may determine all terms of such Awards, subject to the requirements of Rule 16b-3 under the Exchange Act, Code Section 162(m) and, for so long as the Stock is listed on The NASDAQ Stock Exchange LLC, the rules of such Stock Exchange.

##### **3.1.4 Delegation by Committee.**

To the extent permitted by Applicable Laws, the Committee may by resolution delegate some or all of its authority with respect to the Plan and Awards to the Chief Executive Officer of the Company and/or any other officer of the Company designated by the Committee, *provided* that the Committee may not delegate its authority hereunder (a) to make Awards to directors of the Company, (b) to make Awards to Employees who are (i) "officers" as defined in Rule 16a-1(f) under the Exchange Act, (ii) Covered Employees or (iii) officers of the Company who are delegated authority by the Committee pursuant to this **Section 3.1.4**, or (c) to interpret the Plan or any Award. Any delegation hereunder shall be subject to the restrictions and limits that the

Committee specifies at the time of such delegation or thereafter. Nothing in the Plan shall be construed as obligating the Committee to delegate authority to any officer of the Company, and the Committee may at any time rescind the authority delegated to an officer of the Company appointed hereunder and delegate authority to one or more other officers of the Company. At all times, an officer of the Company delegated authority pursuant to this **Section 3.1.4** shall serve in such capacity at the pleasure of the Committee. Any action undertaken by any such officer of the Company in accordance with the Committee's delegation of authority shall have the same force and effect as if undertaken directly by the Committee, and any reference in the Plan to the "Committee" shall, to the extent consistent with the terms and limitations of such delegation, be deemed to include a reference to each such officer.

### **3.2 Board.**

The Board from time to time may exercise any or all of the powers and authorities related to the administration and implementation of the Plan, as set forth in **Section 3.1** and other applicable provisions of the Plan, as the Board shall determine, consistent with the Company's certificate of incorporation and bylaws and Applicable Laws.

### **3.3 Terms of Awards.**

#### **3.3.1 Committee Authority.**

Subject to the other terms and conditions of the Plan, the Committee shall have full and final authority to:

- (a) *designate Grantees;*
- (b) *determine the type or types of Awards to be made to a Grantee;*
- (c) *determine the number of shares of Stock to be subject to an Award;*
- (d) *establish the terms and conditions of each Award (including the Option Price of any Option or the purchase price for Restricted Stock), the nature and duration of any restriction or condition (or provision for lapse thereof) relating to the vesting, exercise, transfer, or forfeiture of an Award or the shares of Stock subject thereto, the treatment of an Award in the event of a Change in Control (subject to applicable agreements), and any terms or conditions that may be necessary to qualify Options as Incentive Stock Options;*
- (e) *prescribe the form of each Award Agreement evidencing an Award; and*
- (f) *subject to the limitation on repricing in Section 3.4, amend, modify or supplement the terms of any outstanding Award, which authority shall include the authority, in order to effectuate the purposes of the Plan but without amending the Plan, to make Awards or to modify outstanding Awards made to eligible natural persons who are foreign nationals or are natural persons who are employed outside the United States to reflect differences in local law, tax policy, or custom, provided that, notwithstanding the foregoing, no amendment, modification or supplement of the terms of any outstanding Award shall, without the consent of the Grantee thereof, impair such Grantee's rights under such Award.*

The Committee shall have the right, in its discretion, to make Awards in substitution or exchange for any award granted under another compensatory plan of the Company, an Affiliate, or any business entity acquired or to be acquired by the Company or an Affiliate or with which the Company or an Affiliate has combined or will combine.

#### **3.3.2 Forfeiture; Recoupment.**

The Committee may reserve the right in an Award Agreement to cause a forfeiture of the gain realized by a Grantee with respect to an Award thereunder on account of actions taken by, or failed to be taken by, such Grantee in violation or breach of or in conflict with any (a) employment agreement, (b) non-competition agreement, (c) agreement prohibiting solicitation of Employees or clients of the Company or an Affiliate, (d) confidentiality obligation with respect to the Company or an Affiliate, (e) Company policy or procedure, (f) other agreement, or (g) any other obligation of such Grantee to the Company or an Affiliate, as and to the extent specified in such Award Agreement. The Committee may annul an outstanding Award if the Grantee

thereof is an Employee of the Company or an Affiliate and is terminated for Cause as defined in the Plan or the applicable Award Agreement or for “cause” as defined in any other agreement between the Company or such Affiliate and such Grantee, as applicable.

Any Award granted pursuant to the Plan shall be subject to mandatory repayment by the Grantee to the Company to the extent the Grantee is, or in the future becomes, subject to (a) any Company “clawback” or recoupment policy that is adopted to comply with the requirements of any Applicable Law, rule or regulation, or otherwise, or (b) any law, rule or regulation which imposes mandatory recoupment, under circumstances set forth in such law, rule or regulation.

### **3.4 No Repricing.**

Except in connection with a corporate transaction involving the Company (including, without limitation, any stock dividend, distribution (whether in the form of cash, shares of Stock, other securities or other property), stock split, extraordinary cash dividend, recapitalization, change in control, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of shares of Stock or other securities or similar transaction), the Company may not, without obtaining stockholder approval: (a) amend the terms of outstanding Options or SARs to reduce the exercise price of such outstanding Options or SARs; (b) cancel outstanding Options or SARs in exchange for or substitution of Options or SARs with an exercise price that is less than the exercise price of the original Options or SARs; or (c) cancel outstanding Options or SARs with an exercise price above the current stock price in exchange for cash or other securities.

### **3.5 Deferral Arrangement.**

The Committee may permit or require the deferral of any payment pursuant to any Award into a deferred compensation arrangement, subject to such rules and procedures as it may establish, which may include provisions for the payment or crediting of interest or Dividend Equivalent Rights and, in connection therewith, provisions for converting such credits into Stock Units and for restricting deferrals to comply with hardship distribution rules affecting tax-qualified retirement plans subject to Code Section 401(k)(2)(B)(IV), *provided* that no Dividend Equivalent Rights may be granted in connection with, or related to, an Award of Options or SARs. Any such deferrals shall be made in a manner that complies with Code Section 409A, including, if applicable, with respect to when a Separation from Service occurs as defined under Section 409A.

### **3.6 No Liability.**

No member of the Board or the Committee shall be liable for any action or determination made in good faith with respect to the Plan or any Award or Award Agreement.

### **3.7 Registration; Share Certificates.**

Notwithstanding any provision of the Plan to the contrary, the ownership of the shares of Stock issued under the Plan may be evidenced in such a manner as the Committee, in its sole discretion, deems appropriate, including by book-entry or direct registration (including transaction advices) or the issuance of one or more share certificates.

## **4. STOCK SUBJECT TO THE PLAN**

### **4.1 Number of Shares of Stock Available for Awards.**

Subject to such additional shares of Stock as shall be available for Awards under the Plan pursuant to **Section 4.2**, and subject to adjustment pursuant to **Section 17.1**, the maximum number of shares of Stock available for Awards under the Plan shall be equal to the sum of (x) 3,437,666 shares of Stock plus (y) the number of shares of Stock available for awards under the Prior Plans as of the Effective Date plus (z) the number of shares of Stock related to awards outstanding under the Prior Plans as of the Effective Date which thereafter terminate by expiration, forfeiture, cancellation, or otherwise without the issuance of such shares. Such shares of Stock may be authorized and unissued shares of Stock or treasury shares of Stock or any combination of the foregoing, as may be determined from time to time by the Board or by the Committee. Any of the shares of Stock available for Awards under the Plan may be used for any type of Award under the Plan, and any or all of the shares of Stock available for Awards under the Plan shall be available for Awards pursuant to Incentive Stock Options.

## **4.2 Adjustments in Authorized Shares of Stock.**

In connection with mergers, reorganizations, separations, or other transactions to which Code Section 424(a) applies, the Committee shall have the right to cause the Company to assume awards previously granted under a compensatory plan by another business entity that is a party to such transaction and to substitute Awards under the Plan for such awards. The number of shares of Stock available for Awards under the Plan pursuant to **Section 4.1** shall be increased by the number of shares of Stock subject to any such assumed awards and substitute Awards. Shares available for awards under a shareholder-approved plan of a business entity that is a party to such transaction (as appropriately adjusted, if necessary, to reflect such transaction) may be used for Awards under the Plan and shall not reduce the number of shares of Stock otherwise available for issuance under the Plan, subject to applicable rules of any Stock Exchange on which the Stock is listed.

## **4.3 Share Usage.**

- (a) *Shares of Stock subject to an Award shall be counted as used as of the Grant Date.*
- (b) *Any shares of Stock, including shares of Stock acquired through dividend reinvestment pursuant to Section 10.4, that are subject to an Award shall be counted against the share issuance limit set forth in Section 4.1 as one (1) share for every one (1) share of Stock subject to such Award. The number of shares of Stock subject to an Award of SARs shall be counted against the share issuance limit set forth in Section 4.1 as one (1) share of Stock for every one (1) share of Stock subject to such Award regardless of the number of shares of Stock actually issued to settle such SARs upon the exercise thereof. The target number of shares issuable under a Performance Share grant shall be counted against the share issuance limit set forth in Section 4.1 as of the Grant Date, but such number shall be adjusted to equal the actual number of shares issued upon settlement of the Performance Shares to the extent different from such target number of shares. An Award that, by its terms, cannot be settled in shares of Stock shall not count against the share limit set forth in Section 4.1.*
- (c) *Notwithstanding anything to the contrary in Section 4.1, any shares of Stock related to Awards under the Plan or the Prior Plans which terminate by expiration, forfeiture, cancellation, or otherwise without the issuance of such shares shall be available again for issuance under the Plan.*
- (d) *The number of shares of Stock available for issuance under the Plan shall not be increased by the number of shares of Stock (i) tendered or withheld or subject to an Award surrendered in connection with the purchase of shares of Stock upon exercise of an Option as provided in Section 12.2, (ii) deducted or delivered from payment of an Award in connection with the Company's tax withholding obligations as provided in Section 18.3 or (iii) purchased by the Company with proceeds from Option exercises.*

## **5. EFFECTIVE DATE; TERM; AMENDMENT AND TERMINATION**

### **5.1 Effective Date.**

The Plan shall be effective as of the Effective Date. Following the Effective Date, no awards shall be made under the Prior Plans. Notwithstanding the foregoing, shares of Stock reserved under the Prior Plans to settle awards, including performance-based awards, which are made under the Prior Plans prior to the Effective Date may be issued and delivered following the Effective Date to settle such awards.

### **5.2 Term.**

The Plan shall terminate automatically fifteen (15) years after the Effective Date and may be terminated on any earlier date as provided in **Section 5.3**.

### **5.3 Amendment and Termination.**

The Board may, at any time and from time to time, amend, suspend or terminate the Plan as to any shares of Stock as to which Awards have not been made. The effectiveness of any amendment to the Plan shall be contingent on approval of such amendment by the Company's stockholders to the extent provided by the Board or required by Applicable Laws (including the rules of any Stock Exchange on which the Stock is then

listed), *provided* that no amendment shall be made to the no-repricing provisions of **Section 3.4** or the Option pricing provisions of **Section 8.1** without the approval of the Company's stockholders. No amendment, suspension or termination of the Plan shall impair rights or obligations under any Award theretofore made under the Plan without the consent of the Grantee thereof.

## **6. AWARD ELIGIBILITY AND LIMITATIONS**

### **6.1 Eligible Grantees.**

Subject to this **Section 6**, Awards may be made under the Plan to (i) any Service Provider, as the Committee shall determine and designate from time to time and (ii) any other individual whose participation in the Plan is determined to be in the best interests of the Company by the Committee.

### **6.2 Limitation on Shares of Stock Subject to Awards and Cash Awards.**

During any time when the Company has a class of equity security registered under Section 12 of the Exchange Act:

- (a) *the maximum number of shares of Stock subject to Options or SARs that may be granted under the Plan in a calendar year to any person eligible for an Award under Section 6 is four hundred thousand (400,000) shares;*
- (b) *the maximum number of shares of Stock that may be granted under the Plan, other than pursuant to Options or SARs, in a calendar year to any person eligible for an Award under Section 6 is four hundred thousand (400,000) shares; and*
- (c) *the maximum amount that may be paid as a cash-settled Performance-Based Award for a Performance Period of twelve (12) months or less to any person eligible for an Award shall be four hundred thousand dollars (\$400,000) and the maximum amount that may be paid as a cash-settled Performance-Based Award for a Performance Period of greater than twelve (12) months to any person eligible for an Award shall also be four hundred thousand dollars (\$400,000).*

The preceding limitations in this **Section 6.2** are subject to adjustment as provided in **Section 17**.

### **6.3 Stand-Alone, Additional, Tandem and Substitute Awards.**

Subject to **Section 3.4**, Awards granted under the Plan may, in the discretion of the Committee, be granted either alone or in addition to, in tandem with, or in substitution or exchange for, (a) any other Award, (b) any award granted under another plan of the Company, an Affiliate, or any business entity that has been a party to a transaction with the Company or an Affiliate, or (c) any other right of a Grantee to receive payment from the Company or an Affiliate. Such additional, tandem and substitute or exchange Awards may be granted at any time. If an Award is granted in substitution or exchange for another Award, or for an award granted under another plan of the Company, an Affiliate, or any business entity that has been a party to a transaction with the Company or an Affiliate, the Committee shall require the surrender of such other Award or award under such other plan in consideration for the grant of such substitute or exchange Award. In addition, Awards may be granted in lieu of cash compensation, including in lieu of cash payments under other plans of the Company or an Affiliate. Notwithstanding **Section 8.1** and **Section 9.1**, but subject to **Section 3.4**, the Option Price of an Option or the SAR Price of a SAR that is a Substitute Award may be less than one hundred percent (100%) of the Fair Market Value of a share of Stock on the original Grant Date; *provided* that such Option Price or SAR Price is determined in accordance with the principles of Code Section 424 for any Incentive Stock Option and consistent with Code Section 409A for any other Option or SAR.

## **7. AWARD AGREEMENT**

Each Award granted pursuant to the Plan shall be evidenced by an Award Agreement, which shall be in such form or forms as the Committee shall from time to time determine. Award Agreements employed under the Plan from time to time or at the same time need not contain similar provisions, but shall be consistent with the terms of the Plan. Each Award Agreement evidencing an Award of Options shall specify whether such Options are intended to be Non-qualified Stock Options or Incentive Stock Options, and, in the absence of such specification, such Options shall be deemed to constitute Non-qualified Stock Options.

## **8. TERMS AND CONDITIONS OF OPTIONS**

### **8.1 Option Price.**

The Option Price of each Option shall be fixed by the Committee and stated in the Award Agreement evidencing such Option. Except in the case of Substitute Awards, the Option Price of each Option shall be at least the Fair Market Value of one (1) share of Stock on the Grant Date; *provided* that in the event that a Grantee is a Ten Percent Stockholder, the Option Price of an Option granted to such Grantee that is intended to be an Incentive Stock Option shall be not less than one hundred ten percent (110%) of the Fair Market Value of one (1) share of Stock on the Grant Date. In no case shall the Option Price of any Option be less than the par value of a share of Stock.

### **8.2 Vesting.**

Subject to **Sections 8.3** and **17.3**, each Option granted under the Plan shall become exercisable at such times and under such conditions as shall be determined by the Committee and stated in the Award Agreement, in another agreement with the Grantee or otherwise in writing, provided that no Option shall be granted to persons who are entitled to overtime under applicable state or federal laws, that will vest or be exercisable within a six-month period starting on the Grant Date.

### **8.3 Term.**

Each Option granted under the Plan shall terminate, and all rights to purchase shares of Stock thereunder shall cease, upon the expiration of ten (10) years from the Grant Date of such Option, or under such circumstances and on such date prior thereto as is set forth in the Plan or as may be fixed by the Committee and stated in the Award Agreement relating to such Option; *provided* that in the event that the Grantee is a Ten Percent Stockholder, an Option granted to such Grantee that is intended to be an Incentive Stock Option shall not be exercisable after the expiration of five (5) years from its Grant Date; and *provided, further*, that, to the extent deemed necessary or appropriate by the Committee to reflect differences in local law, tax policy, or custom with respect to any Option granted to a Grantee who is a foreign national or is a natural person who is employed outside the United States, such Option may terminate, and all rights to purchase shares of Stock thereunder may cease, upon the expiration of such period longer than ten (10) years from the Grant Date of such Option as the Committee shall determine.

### **8.4 Termination of Service.**

Each Award Agreement with respect to the grant of an Option shall set forth the extent to which the Grantee thereof, if at all, shall have the right to exercise such Option following termination of such Grantee's Service. Such provisions shall be determined in the sole discretion of the Committee, need not be uniform among all Options issued pursuant to the Plan, and may reflect distinctions based on the reasons for termination of Service.

### **8.5 Limitations on Exercise of Option.**

Notwithstanding any other provision of the Plan, in no event may any Option be exercised, in whole or in part, after the occurrence of an event referred to in **Section 17** which results in the termination of such Option.

### **8.6 Method of Exercise.**

Subject to the terms of **Section 12** and **Section 18.3**, an Option that is exercisable may be exercised by the Grantee's delivery to the Company or its designee or agent of notice of exercise on any business day, at the Company's principal office or the office of such designee or agent, on the form specified by the Company and in accordance with any additional procedures specified by the Committee. Such notice shall specify the number of shares of Stock with respect to which such Option is being exercised and shall be accompanied by payment in full of the Option Price of the shares of Stock for which such Option is being exercised plus the amount (if any) of federal and/or other taxes which the Company may, in its judgment, be required to withhold with respect to the exercise of such Option.

### **8.7 Rights of Holders of Options.**

Unless otherwise stated in the applicable Award Agreement, a Grantee or other person holding or exercising an Option shall have none of the rights of a stockholder of the Company (for example, the right to

receive cash or dividend payments or distributions attributable to the shares of Stock subject to such Option, to direct the voting of the shares of Stock subject to such Option, or to receive notice of any meeting of the Company's stockholders) until the shares of Stock subject thereto are fully paid and issued to such Grantee or other person. Except as provided in **Section 17**, no adjustment shall be made for dividends, distributions or other rights with respect to any shares of Stock subject to an Option for which the record date is prior to the date of issuance of such shares of Stock.

#### **8.8 Delivery of Stock.**

Promptly after the exercise of an Option by a Grantee and the payment in full of the Option Price with respect thereto, such Grantee shall be entitled to receive such evidence of such Grantee's ownership of the shares of Stock subject to such Option as shall be consistent with **Section 3.7**.

#### **8.9 Transferability of Options.**

Except as provided in **Section 8.10**, during the lifetime of a Grantee of an Option, only such Grantee (or, in the event of such Grantee's legal incapacity or incompetency, such Grantee's guardian or legal representative) may exercise such Option. Except as provided in **Section 8.10**, no Option shall be assignable or transferable by the Grantee to whom it is granted, other than by will or the laws of descent and distribution.

#### **8.10 Family Transfers.**

If authorized in the applicable Award Agreement and by the Committee, in its sole discretion, a Grantee may transfer, not for value, all or part of an Option which is not an Incentive Stock Option to any Family Member. For the purpose of this **Section 8.10**, a transfer "not for value" is a transfer which is (a) a gift, (b) a transfer under a domestic relations order in settlement of marital property rights or (c) unless Applicable Laws do not permit such transfer, a transfer to an entity in which more than fifty percent (50%) of the voting interests are owned by Family Members (and/or the Grantee) in exchange for an interest in such entity. Following a transfer under this **Section 8.10**, any such Option shall continue to be subject to the same terms and conditions as were applicable immediately prior to such transfer, and the shares of Stock acquired pursuant to such Option shall be subject to the same restrictions with respect to transfers of such shares of Stock as would have applied to the Grantee thereof. Subsequent transfers of transferred Options shall be prohibited except to Family Members of the original Grantee in accordance with this **Section 8.10** or by will or the laws of descent and distribution. The provisions of **Section 8.4** relating to termination of Service shall continue to be applied with respect to the original Grantee of the Option, following which such Option shall be exercisable by the transferee only to the extent, and for the periods specified, in **Section 8.4**.

#### **8.11 Limitations on Incentive Stock Options.**

An Option shall constitute an Incentive Stock Option only (a) if the Grantee of such Option is an Employee of the Company or any corporate Subsidiary, (b) to the extent specifically provided in the related Award Agreement and (c) to the extent that the aggregate Fair Market Value (determined at the time such Option is granted) of the shares of Stock with respect to which all Incentive Stock Options held by such Grantee become exercisable for the first time during any calendar year (under the Plan and all other plans of the Company and its Affiliates) does not exceed one hundred thousand dollars (\$100,000). Except to the extent provided in the regulations under Code Section 422, this limitation shall be applied by taking Options into account in the order in which they were granted.

#### **8.12 Notice of Disqualifying Disposition.**

If any Grantee shall make any disposition of shares of Stock issued pursuant to the exercise of an Incentive Stock Option under the circumstances provided in Code Section 421(b) (relating to certain disqualifying dispositions), such Grantee shall notify the Company of such disposition within ten (10) days thereof.

### **9. TERMS AND CONDITIONS OF STOCK APPRECIATION RIGHTS**

#### **9.1 Right to Payment and Grant Price.**

A SAR shall confer on the Grantee to whom it is granted a right to receive, upon exercise thereof, the excess of (x) the Fair Market Value of one (1) share of Stock on the date of exercise over (y) the per share



exercise price of such SAR (the “**SAR Price**”) as determined by the Committee. The Award Agreement for a SAR shall specify the SAR Price, which shall be no less than the Fair Market Value of one (1) share of Stock on the Grant Date of such SAR. SARs may be granted in tandem with all or part of an Option granted under the Plan or at any subsequent time during the term of such Option, in combination with all or any part of any other Award or without regard to any Option or other Award; *provided* that a SAR that is granted subsequent to the Grant Date of a related Option must have a SAR Price that is no less than the Fair Market Value of one (1) share of Stock on the Grant Date of such SAR.

## **9.2 Other Terms.**

The Committee shall determine, on the Grant Date or thereafter, the time or times at which and the circumstances under which a SAR may be exercised in whole or in part (including based on achievement of performance goals and/or future Service requirements), the time or times at which SARs shall cease to be or become exercisable following termination of Service or upon other conditions, the method of exercise, method of settlement, form of consideration payable in settlement, method by or forms in which shares of Stock shall be delivered or deemed to be delivered to Grantees, whether or not a SAR shall be granted in tandem or in combination with any other Award, and any and all other terms and conditions of any SAR.

## **9.3 Term.**

Each SAR granted under the Plan shall terminate, and all rights thereunder shall cease, upon the expiration of ten (10) years from the Grant Date of such SAR or under such circumstances and on such date prior thereto as is set forth in the Plan or as may be fixed by the Committee and stated in the Award Agreement relating to such SAR.

## **9.4 Transferability of SARs.**

Except as provided in **Section 9.5**, during the lifetime of a Grantee of a SAR, only the Grantee (or, in the event of such Grantee’s legal incapacity or incompetency, such Grantee’s guardian or legal representative) may exercise such SAR. Except as provided in **Section 9.5**, no SAR shall be assignable or transferable by the Grantee to whom it is granted, other than by will or the laws of descent and distribution.

## **9.5 Family Transfers.**

If authorized in the applicable Award Agreement and by the Committee, in its sole discretion, a Grantee may transfer, not for value, all or part of a SAR to any Family Member. For the purpose of this **Section 9.5**, a transfer “not for value” is a transfer which is (a) a gift, (b) a transfer under a domestic relations order in settlement of marital property rights or (c) unless Applicable Laws do not permit such transfer, a transfer to an entity in which more than fifty percent (50%) of the voting interests are owned by Family Members (and/or the Grantee) in exchange for an interest in such entity. Following a transfer under this **Section 9.5**, any such SAR shall continue to be subject to the same terms and conditions as were in effect immediately prior to such transfer, and shares of Stock acquired pursuant to a SAR shall be subject to the same restrictions on transfers of such shares of Stock as would have applied to the Grantee or such SAR. Subsequent transfers of transferred SARs shall be prohibited except to Family Members of the original Grantee in accordance with this **Section 9.5** or by will or the laws of descent and distribution.

# **10. TERMS AND CONDITIONS OF RESTRICTED STOCK AND STOCK UNITS**

## **10.1 Grant of Restricted Stock or Stock Units.**

Awards of Restricted Stock and Stock Units may be made for consideration or for no consideration, other than the par value of the shares of Stock, which shall be deemed paid by past Service or, if so provided in the related Award Agreement or a separate agreement, the promise by the Grantee to perform future Service to the Company or an Affiliate.

## **10.2 Restrictions.**

At the time a grant of Restricted Stock or Stock Units is made, the Committee may, in its sole discretion, (a) establish a period of time during which such Restricted Stock or Stock Units are unvested (a “**Restricted Period**”) and (b) prescribe restrictions in addition to or other than the expiration of the Restricted Period,

including the achievement of corporate or individual performance goals, which may be applicable to all or any portion of such Restricted Stock or Stock Units as provided in **Section 14**. Awards of Restricted Stock and Stock Units may not be sold, transferred, assigned, pledged or otherwise encumbered or disposed of during the Restricted Period or prior to the satisfaction of any other restrictions prescribed by the Committee with respect to such Awards.

### **10.3 Registration; Restricted Share Certificates.**

Pursuant to **Section 3.7**, to the extent that ownership of Restricted Stock is evidenced by a book-entry registration or direct registration (including transaction advices), such registration shall be notated to evidence the restrictions imposed on such Award of Restricted Stock under the Plan and the applicable Award Agreement. Subject to **Section 3.7** and the immediately following sentence, the Company may issue, in the name of each Grantee to whom Restricted Stock has been granted, share certificates representing the total number of shares of Restricted Stock granted to the Grantee, as soon as reasonably practicable after the Grant Date of such Restricted Stock. The Committee may provide in an Award Agreement with respect to an Award of Restricted Stock that either (a) the Secretary of the Company shall hold such share certificates for such Grantee's benefit until such time as such shares of Restricted Stock are forfeited to the Company or the restrictions applicable thereto lapse and such Grantee shall deliver a stock power to the Company with respect to each share certificate, or (b) such share certificates shall be delivered to such Grantee, *provided* that such share certificates shall bear legends that comply with applicable securities laws and regulations and make appropriate reference to the restrictions imposed on such Award of Restricted Stock under the Plan and such Award Agreement.

### **10.4 Rights of Holders of Restricted Stock.**

Unless the Committee otherwise provides in an Award Agreement, holders of Restricted Stock shall have the right to vote such shares of Restricted Stock and the right to receive any dividends declared or paid with respect to such shares of Restricted Stock. The Committee may provide that any dividends paid on Restricted Stock must be reinvested in shares of Stock, which may or may not be subject to the same vesting conditions and restrictions as the vesting conditions and restrictions applicable to such Restricted Stock. Dividends paid on Restricted Stock which vests or is earned based upon the achievement of performance goals shall not vest unless such performance goals for such Restricted Stock are achieved, and if such performance goals are not achieved, the Grantee of such Restricted Stock shall promptly forfeit and repay to the Company such dividend payments. All stock distributions, if any, received by a Grantee with respect to Restricted Stock as a result of any stock split, stock dividend, combination of stock, or other similar transaction shall be subject to the vesting conditions and restrictions applicable to such Restricted Stock.

### **10.5 Rights of Holders of Stock Units.**

#### **10.5.1 Voting and Dividend Rights.**

Holders of Stock Units shall have no rights as stockholders of the Company (for example, the right to receive cash or dividend payments or distributions attributable to the shares of Stock subject to such Stock Units, to direct the voting of the shares of Stock subject to such Stock Units, or to receive notice of any meeting of the Company's stockholders). The Committee may provide in an Award Agreement evidencing a grant of Stock Units that the holder of such Stock Units shall be entitled to receive, upon the Company's payment of a cash dividend on its outstanding shares of Stock, a cash payment for each such Stock Unit which is equal to the per-share dividend paid on such shares of Stock. Dividends paid on Stock Units which vest or are earned based upon the achievement of performance goals shall not vest unless such performance goals for such Stock Units are achieved. Such Award Agreement also may provide that such cash payment shall be deemed reinvested in additional Stock Units at a price per unit equal to the Fair Market Value of a share of Stock on the date on which such cash dividend is paid. Such cash payments paid in connection with Stock Units which vest or are earned based upon the achievement of performance goals shall not vest unless such performance goals for such Stock Units are achieved, and if such performance goals are not achieved, the Grantee of such Stock Units shall promptly forfeit and repay to the Company such cash payments.

### **10.5.2 Creditor's Rights.**

A holder of Stock Units shall have no rights other than those of a general unsecured creditor of the Company. Stock Units represent unfunded and unsecured obligations of the Company, subject to the terms and conditions of the applicable Award Agreement.

### **10.6 Termination of Service.**

Unless the Committee otherwise provides in an Award Agreement, in another agreement with the Grantee or otherwise in writing after such Award Agreement is entered into, but prior to termination of Grantee's Service, upon the termination of such Grantee's Service, any Restricted Stock or Stock Units held by such Grantee that have not vested, or with respect to which all applicable restrictions and conditions have not lapsed, shall immediately be deemed forfeited. Upon forfeiture of such Restricted Stock or Stock Units, the Grantee thereof shall have no further rights with respect thereto, including any right to vote such Restricted Stock or any right to receive dividends with respect to such Restricted Stock or Stock Units.

### **10.7 Purchase of Restricted Stock and Shares of Stock Subject to Stock Units.**

The Grantee of an Award of Restricted Stock or vested Stock Units shall be required, to the extent required by Applicable Laws, to purchase such Restricted Stock or the shares of Stock subject to such vested Stock Units from the Company at a purchase price equal to the greater of (x) the aggregate par value of the shares of Stock represented by such Restricted Stock or such vested Stock Units or (y) the purchase price, if any, specified in the Award Agreement relating to such Restricted Stock or such vested Stock Units. Such purchase price shall be payable in a form provided in **Section 12** or, in the sole discretion of the Committee, in consideration for Service rendered or to be rendered to the Company or an Affiliate.

### **10.8 Delivery of Shares of Stock.**

Upon the expiration or termination of any Restricted Period and the satisfaction of any other conditions prescribed by the Committee, including, but not limited to, any delayed delivery period, the restrictions applicable to Restricted Stock or Stock Units settled in shares of Stock shall lapse, and, unless otherwise provided in the applicable Award Agreement, a book-entry or direct registration (including transaction advices) or a share certificate evidencing ownership of such shares of Stock shall, consistent with **Section 3.7**, be issued, free of all such restrictions, to the Grantee thereof or such Grantee's beneficiary or estate, as the case may be. Neither the Grantee, nor the Grantee's beneficiary or estate, shall have any further rights with regard to a Stock Unit once the shares of Stock represented by such Stock Unit have been delivered in accordance with this **Section 10.8**.

## **11. TERMS AND CONDITIONS OF UNRESTRICTED STOCK AWARDS AND OTHER EQUITY-BASED AWARDS**

### **11.1 Unrestricted Stock Awards.**

The Committee may, in its sole discretion, grant (or sell at the par value of a share of Stock or at such other higher purchase price as shall be determined by the Committee) an Award to any Grantee pursuant to which such Grantee may receive shares of Stock free of any restrictions ("**Unrestricted Stock**") under the Plan. Unrestricted Stock Awards may be granted or sold to any Grantee as provided in the immediately preceding sentence in respect of past Service or, if so provided in the related Award Agreement or a separate agreement, the promise by the Grantee to perform future Service, to the Company or an Affiliate or other valid consideration, or in lieu of, or in addition to, any cash compensation due to such Grantee.

### **11.2 Other Equity-Based Awards.**

The Committee may, in its sole discretion, grant Awards in the form of Other Equity-Based Awards, as deemed by the Committee to be consistent with the purposes of the Plan. Awards granted pursuant to this **Section 11.2** may be granted with vesting, value and/or payment contingent upon the achievement of one or more performance goals. The Committee shall determine the terms and conditions of Other Equity-Based Awards at the Grant Date or thereafter. Any dividends paid on Other Equity-Based Awards which vest or are earned based upon the achievement of performance goals shall not vest unless such performance goals for such Other Equity-Based Awards are achieved. Unless the Committee otherwise provides in an Award

Agreement, in another agreement with the Grantee, or otherwise in writing after such Award Agreement is issued, upon the termination of a Grantee's Service, any Other Equity-Based Awards held by such Grantee that have not vested, or with respect to which all applicable restrictions and conditions have not lapsed, shall immediately be deemed forfeited. Upon forfeiture of any Other Equity-Based Award, the Grantee thereof shall have no further rights with respect to such Other Equity-Based Award.

## **12. FORM OF PAYMENT FOR OPTIONS AND RESTRICTED STOCK**

### **12.1 General Rule.**

Payment of the Option Price for the shares of Stock purchased pursuant to the exercise of an Option or the purchase price, if any, for Restricted Stock shall be made in cash or in cash equivalents acceptable to the Company.

### **12.2 Surrender of Shares of Stock.**

To the extent that the applicable Award Agreement so provides, payment of the Option Price for shares of Stock purchased pursuant to the exercise of an Option or the purchase price, if any, for Restricted Stock may be made all or in part through the tender or attestation to the Company of shares of Stock, which shall be valued, for purposes of determining the extent to which such Option Price or purchase price has been paid thereby, at their Fair Market Value on the date of such tender or attestation.

### **12.3 Cashless Exercise.**

To the extent permitted by Applicable Laws and to the extent the Award Agreement so provides, payment of the Option Price for shares of Stock purchased pursuant to the exercise of an Option may be made all or in part by delivery (on a form acceptable to the Committee) of an irrevocable direction to a licensed securities broker acceptable to the Company to sell shares of Stock and to deliver all or part of the proceeds of such sale to the Company in payment of such Option Price and any withholding taxes described in **Section 18.3**, or, with the consent of the Company, by issuing the number of shares of Stock equal in value to the difference between such Option Price and the Fair Market Value of the shares of Stock subject to the portion of such Option being exercised.

### **12.4 Other Forms of Payment.**

To the extent the Award Agreement so provides and/or unless otherwise specified in an Award Agreement, payment of the Option Price for shares of Stock purchased pursuant to exercise of an Option or the purchase price, if any, for Restricted Stock may be made in any other form that is consistent with Applicable Laws, including (a) Service by the Grantee thereof to the Company or an Affiliate and (b) by withholding shares of Stock that would otherwise vest or be issuable in an amount equal to the Option Price or purchase price and the required tax withholding amount.

## **13. TERMS AND CONDITIONS OF DIVIDEND EQUIVALENT RIGHTS**

### **13.1 Dividend Equivalent Rights.**

A Dividend Equivalent Right is an Award entitling the recipient thereof to receive credits based on cash distributions that would have been paid on the shares of Stock specified in such Dividend Equivalent Right (or other Award to which such Dividend Equivalent Right relates) if such shares of Stock had been issued to and held by the recipient of such Dividend Equivalent Right as of the record date. A Dividend Equivalent Right may be granted hereunder to any Grantee, *provided* that no Dividend Equivalent Rights may be granted in connection with, or related to, an Award of Options or SARs. The terms and conditions of Dividend Equivalent Rights shall be specified in the Award Agreement therefor. Dividend equivalents credited to the holder of a Dividend Equivalent Right may be paid currently (with or without being subject to forfeiture or a repayment obligation) or may be deemed to be reinvested in additional shares of Stock, which may thereafter accrue additional Dividend Equivalent Rights (with or without being subject to forfeiture or a repayment obligation). Any such reinvestment shall be at the Fair Market Value thereof on the date of such reinvestment. Dividend Equivalent Rights may be settled in cash or shares of Stock or a combination thereof, in a single installment or in multiple installments, all as determined in the sole discretion of the Committee. A Dividend Equivalent Right granted as a component of another Award may provide that such Dividend Equivalent

Right shall be settled upon exercise, settlement, or payment of, or lapse of restrictions on, such other Award, and that such Dividend Equivalent Right shall expire or be forfeited or annulled under the same conditions as such other Award. A Dividend Equivalent Right granted as a component of another Award also may contain terms and conditions which are different from the terms and conditions of such other Award, *provided* that Dividend Equivalent Rights credited pursuant to a Dividend Equivalent Right granted as a component of another Award which vests or is earned based upon the achievement of performance goals shall not vest unless such performance goals for such underlying Award are achieved, and if such performance goals are not achieved, the Grantee of such Dividend Equivalent Rights shall promptly forfeit and repay to the Company payments made in connection with such Dividend Equivalent Rights.

### **13.2 Termination of Service.**

Unless the Committee otherwise provides in an Award Agreement, in another agreement with the Grantee, or otherwise in writing after such Award Agreement is issued, a Grantee's rights in all Dividend Equivalent Rights shall automatically terminate upon such Grantee's termination of Service for any reason.

## **14. TERMS AND CONDITIONS OF PERFORMANCE-BASED AWARDS**

### **14.1 Grant of Performance-Based Awards.**

Subject to the terms and provisions of the Plan, the Committee, at any time and from time to time, may grant Performance-Based Awards to a Plan participant in such amounts and upon such terms as the Committee shall determine.

### **14.2 Value of Performance-Based Awards.**

Each grant of a Performance-Based Award shall have an actual or target number of shares of Stock or initial value that is established by the Committee at the time of grant. The Committee shall set performance goals in its discretion which, depending on the extent to which they are achieved, shall determine the value and/or number of shares of Stock subject to a Performance-Based Award that will be paid out to the Grantee thereof.

### **14.3 Earning of Performance-Based Awards.**

Subject to the terms of the Plan, in particular **Section 14.6.3**, after the applicable Performance Period has ended, the Grantee of Performance-Based Awards shall be entitled to receive a payout on the number of the Performance-Based Awards or value earned by such Grantee over such Performance Period.

### **14.4 Form and Timing of Payment of Performance-Based Awards.**

Payment of earned Performance-Based Awards shall be made in the manner described in the applicable Award Agreement as determined by the Committee. Subject to the terms of the Plan, the Committee, in its sole discretion, may pay earned Performance-Based Awards in the form of cash or shares of Stock (or a combination thereof) equal to the value of such earned Performance-Based Awards and shall pay the Awards that have been earned at the close of the applicable Performance Period, or as soon as reasonably practicable after the Committee has determined that the performance goal or goals relating thereto have been achieved; *provided* that, unless specifically provided in the Award Agreement for such Awards, such payment shall occur no later than the 15th day of the third month following the end of the calendar year in which such Performance Period ends. Any shares of Stock paid out under such Performance-Based Awards may be granted subject to any restrictions deemed appropriate by the Committee. The determination of the Committee with respect to the form of payout of such Performance-Based Awards shall be set forth in the Award Agreement therefor.

### **14.5 Performance Conditions.**

The right of a Grantee to exercise or receive a grant or settlement of any Performance-Based Award, and the timing thereof, may be subject to such performance conditions as may be specified by the Committee. The Committee may use such business criteria and other measures of performance as it may deem appropriate in establishing any performance conditions. If and to the extent required under Code Section 162(m), any power or authority relating to an Award intended to qualify under Code Section 162(m) shall be exercised by the Committee and not by the Board.

#### **14.6 Performance-Based Awards Granted to Designated Covered Employees.**

If and to the extent that the Committee determines that a Performance-Based Award to be granted to a Grantee should constitute “qualified performance-based compensation” for purposes of Code Section 162(m), the grant, exercise and/or settlement of such Award shall be contingent upon achievement of pre-established performance goals and other terms set forth in this **Section 14.6**.

##### **14.6.1 Performance Goals Generally.**

The performance goals for Performance-Based Awards shall consist of one or more business criteria and a targeted level or levels of performance with respect to each of such criteria, as specified by the Committee consistent with this **Section 14.6**. Performance goals shall be objective and shall otherwise meet the requirements of Code Section 162(m), including the requirement that the level or levels of performance targeted by the Committee result in the achievement of performance goals being “substantially uncertain.” The Committee may determine that such Awards shall be granted, exercised and/or settled upon achievement of any single performance goal or of two (2) or more performance goals. Performance goals may differ for Awards granted to any one Grantee or to different Grantees.

##### **14.6.2 Timing For Establishing Performance Goals.**

Performance goals for any Performance-Based Award shall be established not later than the earlier of (a) 90 days after the beginning of any Performance Period applicable to such Award, and (b) the date on which twenty-five percent (25%) of any Performance Period applicable to such Award has expired, or at such other date as may be required or permitted for compensation payable to a Covered Employee to constitute Performance-Based Compensation.

##### **14.6.3 Payment of Awards; Other Terms.**

Payment of Performance-Based Awards shall be in cash, shares of Stock, or other Awards, including an Award that is subject to additional Service-based vesting, as determined in the sole discretion of the Committee. The Committee may, in its sole discretion, reduce the amount of a payment otherwise to be made in connection with such Awards. The Committee shall specify the circumstances in which such Performance-Based Awards shall be paid or forfeited in the event of termination of Service by the Grantee prior to the end of a Performance Period or settlement of such Awards. In the event payment of the Performance-Based Award is made in the form of another Award subject to Service-based vesting, the Committee shall specify the circumstances in which the payment Award will be paid or forfeited in the event of a termination of Service.

##### **14.6.4 Performance Measures.**

The performance goals upon which the payment or vesting of a Performance-Based Award to a Covered Employee that is intended to qualify as Performance-Based Compensation may be conditioned shall be limited to the following Performance Measures, with or without adjustment:

- (a) *net earnings or net income;*
- (b) *operating earnings;*
- (c) *pretax earnings;*
- (d) *earnings per share;*
- (e) *share price, including growth measures and total stockholder return;*
- (f) *earnings before interest and taxes;*
- (g) *earnings before interest, taxes, depreciation and/or amortization;*
- (h) *earnings before interest, taxes, depreciation and/or amortization as adjusted to exclude any one or more of the following:*
  - stock-based compensation expense;
  - income from discontinued operations;

- gain on cancellation of debt;
  - debt extinguishment and related costs;
  - restructuring, separation and/or integration charges and costs;
  - reorganization and/or recapitalization charges and costs;
  - impairment charges;
  - gain or loss related to investments;
  - sales and use tax settlement; and
  - gain on non-monetary transactions.
- (i) *sales or revenue growth, whether in general, by type of product or service, or by type of customer;*
- (j) *gross or operating margins;*
- (k) *return measures, including return on assets, capital, investment, equity, sales or revenue;*
- (l) *cash flow, including:*
- operating cash flow;
  - free cash flow, defined as earnings before interest, taxes, depreciation and/or amortization (as adjusted to exclude any one or more of the items that may be excluded pursuant to the Performance Measure specified in clause (h) above) less capital expenditures;
  - levered free cash flow, defined as free cash flow less interest expense;
  - cash flow return on equity; and
  - cash flow return on investment;
- (m) *productivity ratios;*
- (n) *expense targets;*
- (o) *market share;*
- (p) *financial ratios as provided in credit agreements of the Company and its subsidiaries;*
- (q) *working capital targets;*
- (r) *completion of acquisitions of businesses or companies;*
- (s) *completion of divestitures and asset sales;*
- (t) *customer satisfaction;*
- (u) *overhead costs;*
- (v) *burn rates;*
- (w) *resource and reserve identification and targeting;*
- (x) *attainment of measurable objectives with respect to compliant resource statements or technical reports;*
- (y) *safety and environmental performance;*
- (z) *completion of capital markets transactions as approved by the Board; or*
- (aa) *any combination of the foregoing business criteria.*

Performance under any of the foregoing Performance Measures (a) may be used to measure the performance of (i) the Company and its Subsidiaries and other Affiliates as a whole, (ii) the Company, any

Subsidiary, and/or any other Affiliate or any combination thereof, or (iii) any one or more business units of the Company, any Subsidiary, and/or any other Affiliate, as the Committee, in its sole discretion, deems appropriate and (b) may be compared to the performance of one or more other companies or one or more published or special indices designated or approved by the Committee for such comparison, as the Committee, in its sole discretion, deems appropriate. In addition, the Committee, in its sole discretion, may select performance under the Performance Measure specified in clause (e) above for comparison to performance under one or more stock market indices designated or approved by the Committee. The Committee also shall have the authority to provide for accelerated vesting of any Performance-Based Award based on the achievement of performance goals pursuant to the Performance Measures specified in this **Section 14**.

#### **14.6.5 Evaluation of Performance.**

The Committee may provide in any Performance-Based Award that any evaluation of performance may include or exclude any of the following events that occur during a Performance Period: (a) asset write-downs; (b) litigation or claims, judgments or settlements; (c) the effect of changes in tax laws, accounting principles or other laws or provisions affecting reported results; (d) any reorganization or restructuring events or programs; (e) extraordinary, non-core, non-operating or non-recurring items; (f) acquisitions or divestitures; and (g) foreign exchange gains and losses. To the extent such inclusions or exclusions affect Awards to Covered Employees that are intended to qualify as Performance-Based Compensation, such inclusions or exclusions shall be prescribed in a form that meets the requirements of Code Section 162(m) for deductibility.

#### **14.6.6 Adjustment of Performance-Based Compensation.**

The Committee shall have the sole discretion to adjust Awards that are intended to qualify as Performance-Based Compensation, either on a formula or discretionary basis, or on any combination thereof, as the Committee determines consistent with the requirements of Code Section 162(m) for deductibility.

#### **14.6.7 Committee Discretion.**

In the event that Applicable Laws change to permit Committee discretion to alter the governing Performance Measures without obtaining stockholder approval of such changes, the Committee shall have sole discretion to make such changes without obtaining stockholder approval, *provided* that the exercise of such discretion shall not be inconsistent with the requirements of Code Section 162(m). In addition, in the event that the Committee determines that it is advisable to grant Awards that shall not qualify as Performance-Based Compensation, the Committee may make such grants without satisfying the requirements of Code Section 162(m) and base vesting on Performance Measures other than those set forth in **Section 14.6.4**.

### **14.7 Status of Awards Under Code Section 162(m).**

It is the intent of the Company that Performance-Based Awards under **Section 14.6** granted to persons who are designated by the Committee as likely to be Covered Employees within the meaning of Code Section 162(m) and the regulations promulgated thereunder shall, if so designated by the Committee, constitute “qualified performance-based compensation” within the meaning of Code Section 162(m). Accordingly, the terms of **Section 14.6**, including the definitions of Covered Employee and other terms used therein, shall be interpreted in a manner consistent with Code Section 162(m). If any provision of the Plan or any agreement relating to any such Performance-Based Award does not comply or is inconsistent with the requirements of Code Section 162(m), such provision shall be construed or deemed amended to the extent necessary to conform to such requirements.

## **15. PARACHUTE LIMITATIONS**

If any Grantee is a “disqualified individual,” as defined in Code Section 280G(c), then, notwithstanding any other provision of the Plan or of any other agreement, contract, or understanding heretofore or hereafter entered into by such Grantee with the Company or an Affiliate, except an agreement, contract, or understanding that expressly addresses Code Section 280G or Code Section 4999 (an “**Other Agreement**”), and notwithstanding any formal or informal plan or other arrangement for the direct or indirect provision of compensation to the Grantee (including groups or classes of Grantees or beneficiaries of which the Grantee is a member), whether or not such compensation is deferred, is in cash, or is in the form of a benefit to or for the



Grantee (a “**Benefit Arrangement**”), any right of the Grantee to any exercise, vesting, payment, or benefit under the Plan shall be reduced or eliminated:

- (a) *to the extent that such right to exercise, vesting, payment, or benefit, taking into account all other rights, payments, or benefits to or for the Grantee under the Plan, all Other Agreements, and all Benefit Arrangements, would cause any exercise, vesting, payment, or benefit to the Grantee under the Plan to be considered a “parachute payment” within the meaning of Code Section 280G(b)(2) as then in effect (a “Parachute Payment”); and*
- (b) *if, as a result of receiving such Parachute Payment, the aggregate after-tax amounts received by the Grantee from the Company under the Plan, all Other Agreements, and all Benefit Arrangements would be less than the maximum after-tax amount that could be received by the Grantee without causing any such payment or benefit to be considered a Parachute Payment.*

The Company shall accomplish such reduction by first reducing or eliminating any cash payments (with the payments to be made furthest in the future being reduced first), then by reducing or eliminating any accelerated vesting of Performance-Based Awards, then by reducing or eliminating any accelerated vesting of Options or SARs, then by reducing or eliminating any accelerated vesting of Restricted Stock or Stock Units, then by reducing or eliminating any other remaining Parachute Payments.

## **16. REQUIREMENTS OF LAW**

### **16.1 General.**

The Company shall not be required to offer, sell or issue any shares of Stock under any Award, whether pursuant to the exercise of an Option or SAR or otherwise, if the offer, sale or issuance of such shares of Stock would constitute a violation by the Grantee, the Company or an Affiliate, or any other person, of any provision of Applicable Laws, including any federal or state securities laws or regulations. If at any time the Company shall determine, in its discretion, that the listing, registration or qualification of any shares of Stock subject to an Award upon any securities exchange or under any governmental regulatory body is necessary or desirable as a condition of, or in connection with, the offering, issuance, sale or purchase of shares of Stock in connection with any Award, no shares of Stock may be offered, issued or sold to the Grantee or any other person under such Award, whether pursuant to the exercise of an Option or SAR or otherwise, unless such listing, registration or qualification shall have been effected or obtained free of any conditions not acceptable to the Company, and any delay caused thereby shall in no way affect the date of termination of such Award. Without limiting the generality of the foregoing, upon the exercise of any Option or any SAR that may be settled in shares of Stock or the delivery of any shares of Stock underlying an Award, unless a registration statement under the Securities Act is in effect with respect to the shares of Stock subject to such Award, the Company shall not be required to offer, sell or issue such shares of Stock unless the Committee shall have received evidence satisfactory to it that the Grantee or any other person exercising such Option or SAR or accepting delivery of such shares may acquire such shares of Stock pursuant to an exemption from registration under the Securities Act. Any determination in this connection by the Committee shall be final, binding, and conclusive. The Company may register, but shall in no event be obligated to register, any shares of Stock or other securities issuable pursuant to the Plan pursuant to the Securities Act. The Company shall not be obligated to take any affirmative action in order to cause the exercise of an Option or a SAR or the issuance of shares of Stock or other securities issuable pursuant to the Plan or any Award to comply with any Applicable Laws. As to any jurisdiction that expressly imposes the requirement that an Option or SAR that may be settled in shares of Stock shall not be exercisable until the shares of Stock subject to such Option or SAR are registered under the securities laws thereof or are exempt from such registration, the exercise of such Option or SAR under circumstances in which the laws of such jurisdiction apply shall be deemed conditioned upon the effectiveness of such registration or the availability of such an exemption.

### **16.2 Rule 16b-3.**

During any time when the Company has a class of equity security registered under Section 12 of the Exchange Act, it is the intention of the Company that Awards pursuant to the Plan and the exercise of Options and SARs granted hereunder that would otherwise be subject to Section 16(b) of the Exchange Act shall qualify for the exemption provided by Rule 16b-3 under the Exchange Act. To the extent that any provision of the Plan or action by the Committee does not comply with the requirements of such Rule 16b-3, such provision

or action shall be deemed inoperative with respect to such Awards to the extent permitted by Applicable Laws and deemed advisable by the Committee, and shall not affect the validity of the Plan. In the event that such Rule 16b-3 is revised or replaced, the Board may exercise its discretion to modify the Plan in any respect necessary or advisable in its judgment to satisfy the requirements of, or to permit the Company to avail itself of the benefits of, the revised exemption or its replacement.

## **17. EFFECT OF CHANGES IN CAPITALIZATION**

### **17.1 Changes in Stock.**

If the number of outstanding shares of Stock is increased or decreased or the shares of Stock are changed into or exchanged for a different number of shares or kind of capital stock or other securities of the Company on account of any recapitalization, reclassification, stock split, reverse stock split, spin-off, combination of stock, exchange of stock, stock dividend or other distribution payable in capital stock, or other increase or decrease in shares of Stock effected without receipt of consideration by the Company occurring after the Effective Date, the number and kinds of shares of stock for which grants of Options and other Awards may be made under the Plan, including the share limits set forth in **Section 6.2**, shall be adjusted proportionately and accordingly by the Committee. In addition, the number and kind of shares of stock for which Awards are outstanding shall be adjusted proportionately and accordingly by the Committee so that the proportionate interest of the Grantee therein immediately following such event shall, to the extent practicable, be the same as immediately before such event. Any such adjustment in outstanding Options or SARs shall not change the aggregate Option Price or SAR Price payable with respect to shares that are subject to the unexercised portion of such outstanding Options or SARs, as applicable, but shall include a corresponding proportionate adjustment in the per share Option Price or SAR Price, as the case may be. The conversion of any convertible securities of the Company shall not be treated as an increase in shares effected without receipt of consideration. Notwithstanding the foregoing, in the event of any distribution to the Company's stockholders of securities of any other entity or other assets (including an extraordinary dividend, but excluding a non-extraordinary dividend, declared and paid by the Company) without receipt of consideration by the Company, the Board or the Committee constituted pursuant to **Section 3.1.2** shall, in such manner as the Board or the Committee deems appropriate, adjust (a) the number and kind of shares of stock subject to outstanding Awards and/or (b) the aggregate and per share Option Price of outstanding Options and the aggregate and per share SAR Price of outstanding SARs as required to reflect such distribution.

### **17.2 Reorganization in Which the Company Is the Surviving Entity Which Does not Constitute a Change in Control.**

Subject to **Section 17.3**, if the Company shall be the surviving entity in any reorganization, merger or consolidation of the Company with one or more other entities which does not constitute a Change in Control, any Option or SAR theretofore granted pursuant to the Plan shall pertain to and apply to the securities to which a holder of the number of shares of Stock subject to such Option or SAR would have been entitled immediately following such reorganization, merger or consolidation, with a corresponding proportionate adjustment of the per share Option Price or SAR Price so that the aggregate Option Price or SAR Price thereafter shall be the same as the aggregate Option Price or SAR Price of the shares of Stock remaining subject to the Option or SAR as in effect immediately prior to such reorganization, merger, or consolidation. Subject to any contrary language in an Award Agreement or in another agreement with the Grantee, or otherwise set forth in writing, any restrictions applicable to such Award shall apply as well to any replacement shares received by the Grantee as a result of such reorganization, merger or consolidation. In the event of any reorganization, merger or consolidation of the Company referred to in this **Section 17.2**, Performance-Based Awards shall be adjusted (including any adjustment to the Performance Measures applicable to such Awards deemed appropriate by the Committee) so as to apply to the securities that a holder of the number of shares of Stock subject to the Performance-Based Awards would have been entitled to receive immediately following such reorganization, merger or consolidation.

### **17.3 Change in Control in which Awards are not Assumed.**

Except as otherwise provided in the applicable Award Agreement or in another agreement with the Grantee, or as otherwise set forth in writing, upon the occurrence of a Change in Control in which outstanding

Options, SARs, Restricted Stock, Stock Units, Dividend Equivalent Rights or Other Equity-Based Awards are not being assumed or continued, the following provisions shall apply to such Award, to the extent not assumed or continued:

- (a) *in each case with the exception of Performance-Based Awards, all outstanding Restricted Stock shall be deemed to have vested, all Stock Units shall be deemed to have vested and the shares of Stock subject thereto shall be delivered, and all Dividend Equivalent Rights shall be deemed to have vested and the shares of Stock subject thereto shall be delivered, immediately prior to the occurrence of such Change in Control, and either of the following two actions shall be taken:*
  - (i) fifteen (15) days prior to the scheduled consummation of such Change in Control, all Options and SARs outstanding hereunder shall become immediately exercisable and shall remain exercisable for a period of fifteen (15) days, which exercise shall be effective upon such consummation; or
  - (ii) the Committee may elect, in its sole discretion, to cancel any outstanding Awards of Options, SARs, Restricted Stock, Stock Units and/or Dividend Equivalent Rights and pay or deliver, or cause to be paid or delivered, to the holder thereof an amount in cash or securities having a value (as determined by the Committee acting in good faith), in the case of Restricted Stock or Stock Units and Dividend Equivalent Rights (for shares of Stock subject thereto), equal to the formula or fixed price per share paid to holders of shares of Stock pursuant to such Change in Control and, in the case of Options or SARs, equal to the product of the number of shares of Stock subject to such Options or SARs (the "Award Stock") multiplied by the amount, if any, by which (x) the formula or fixed price per share paid to holders of shares of Stock pursuant to such transaction exceeds (y) the Option Price or SAR Price applicable to such Award Stock.
- (b) *For Performance-Based Awards denominated in Stock, if less than half of the Performance Period has lapsed, such Awards shall be treated as though target performance has been achieved. If at least half the Performance Period has lapsed, actual performance to date shall be determined as of a date reasonably proximal to the date of consummation of the Change in Control as determined by the Committee in its sole discretion, and that level of performance thus determined shall be treated as achieved immediately prior to occurrence of the Change in Control. For purposes of the preceding sentence, if, based on the discretion of the Committee, actual performance is not determinable, the Awards shall be treated as though target performance has been achieved. After application of this Section 17.3(b), if any Awards arise from application of this Section 17, such Awards shall be settled under the applicable provision of Section 17.3(a).*
- (c) *Other Equity-Based Awards shall be governed by the terms of the applicable Award Agreement.*

With respect to the Company's establishment of an exercise window, (A) any exercise of an Option or SAR during the fifteen (15)-day period referred to above shall be conditioned upon the consummation of the applicable Change in Control and shall be effective only immediately before the consummation thereof, and (B) upon consummation of any Change in Control, the Plan and all outstanding but unexercised Options and SARs shall terminate. The Committee shall send notice of an event that shall result in such a termination to all natural persons and entities who hold Options and SARs not later than the time at which the Company gives notice thereof to its stockholders.

#### **17.4 Change in Control in which Awards are Assumed.**

Except as otherwise provided in the applicable Award Agreement or in another agreement with the Grantee, or as otherwise set forth in writing, upon the occurrence of a Change in Control in which outstanding Options, SARs, Restricted Stock, Stock Units, Dividend Equivalent Rights or Other Equity-Based Awards are being assumed or continued, the following provisions shall apply to such Award, to the extent assumed or continued:

The Plan and the Options, SARs, Restricted Stock, Stock Units, Dividend Equivalent Rights and Other Equity-Based Awards granted under the Plan shall continue in the manner and under the terms so provided in the event of any Change in Control to the extent that provision is made in writing in connection with such Change in Control for the assumption or continuation of such Options, SARs, Restricted Stock, Stock Units,

Dividend Equivalent Rights and Other Equity-Based Awards, or for the substitution for such Options, SARs, Restricted Stock, Stock Units, Dividend Equivalent Rights and Other Equity-Based Awards of new common stock options, stock appreciation rights, restricted stock, common stock units, dividend equivalent rights and other equity-based awards relating to the stock of a successor entity, or a parent or subsidiary thereof, with appropriate adjustments as to the number of shares (disregarding any consideration that is not common stock) and option and stock appreciation rights exercise prices. In the event an Award is assumed, continued or substituted upon the consummation of any Change in Control and the employment of such Grantee with the Company or an Affiliate is terminated without Cause within one year following the consummation of such Change in Control, such Award shall be fully vested and may be exercised in full, to the extent applicable, beginning on the date of such termination and for the one-year period immediately following such termination or for such longer period as the Committee shall determine.

#### **17.5 Adjustments.**

Adjustments under this **Section 17** related to shares of Stock or other securities of the Company shall be made by the Committee, whose determination in that respect shall be final, binding and conclusive. No fractional shares or other securities shall be issued pursuant to any such adjustment, and any fractions resulting from any such adjustment shall be eliminated in each case by rounding downward to the nearest whole share. The Committee may provide in the applicable Award Agreement at the time of grant, in another agreement with the Grantee, or otherwise in writing at any time thereafter with the consent of the Grantee, for different provisions to apply to an Award in place of those provided in **Sections 17.1, 17.2, 17.3 and 17.4**. This **Section 17** shall not limit the Committee's ability to provide for alternative treatment of Awards outstanding under the Plan in the event of a change in control event involving the Company that is not a Change in Control.

#### **17.6 No Limitations on Company.**

The making of Awards pursuant to the Plan shall not affect or limit in any way the right or power of the Company to make adjustments, reclassifications, reorganizations, or changes of its capital or business structure or to merge, consolidate, dissolve, or liquidate, or to sell or transfer all or any part of its business or assets (including all or any part of the business or assets of any Subsidiary or other Affiliate) or engage in any other transaction or activity.

### **18. GENERAL PROVISIONS**

#### **18.1 Disclaimer of Rights.**

No provision in the Plan or in any Award or Award Agreement shall be construed to confer upon any individual the right to remain in the employ or Service of the Company or an Affiliate, or to interfere in any way with any contractual or other right or authority of the Company or an Affiliate either to increase or decrease the compensation or other payments to any natural person or entity at any time, or to terminate any employment or other relationship between any natural person or entity and the Company or an Affiliate. In addition, notwithstanding anything contained in the Plan to the contrary, unless otherwise stated in the applicable Award Agreement, in another agreement with the Grantee, or otherwise in writing, no Award granted under the Plan shall be affected by any change of duties or position of the Grantee thereof, so long as such Grantee continues to provide Service. The obligation of the Company to pay any benefits pursuant to the Plan shall be interpreted as a contractual obligation to pay only those amounts provided herein, in the manner and under the conditions prescribed herein. The Plan and Awards shall in no way be interpreted to require the Company to transfer any amounts to a third-party trustee or otherwise hold any amounts in trust or escrow for payment to any Grantee or beneficiary under the terms of the Plan.

#### **18.2 Nonexclusivity of the Plan.**

Neither the adoption of the Plan nor the submission of the Plan to the stockholders of the Company for approval shall be construed as creating any limitations upon the right and authority of the Board to adopt such other incentive compensation arrangements (which arrangements may be applicable either generally to a class or classes of individuals or specifically to a particular individual or particular individuals) as the Board in its discretion determines desirable.

### **18.3 Withholding Taxes.**

The Company or an Affiliate, as the case may be, shall have the right to deduct from payments of any kind otherwise due to a Grantee any federal, state, or local taxes of any kind required by law to be withheld with respect to the vesting of or other lapse of restrictions applicable to an Award or upon the issuance of any shares of Stock upon the exercise of an Option or pursuant to any other Award. At the time of such vesting, lapse, or exercise, the Grantee shall pay in cash to the Company or an Affiliate, as the case may be, any amount that the Company or such Affiliate may reasonably determine to be necessary to satisfy such withholding obligation; *provided* that if there is a same-day sale of shares of Stock subject to an Award, the Grantee shall pay such withholding obligation on the day on which such same-day sale is completed. Subject to the prior approval of the Company or an Affiliate, which may be withheld by the Company or such Affiliate, as the case may be, in its sole discretion, the Grantee may elect to satisfy such withholding obligation, in whole or in part, (a) by causing the Company or such Affiliate to withhold shares of Stock otherwise issuable to the Grantee or (b) by delivering to the Company or such Affiliate shares of Stock already owned by the Grantee. The shares of Stock so withheld or delivered shall have an aggregate Fair Market Value equal to such withholding obligation. The Fair Market Value of the shares of Stock used to satisfy such withholding obligation shall be determined by the Company or such Affiliate as of the date on which the amount of tax to be withheld is to be determined. A Grantee who has made an election pursuant to this **Section 18.3** may satisfy such Grantee's withholding obligation only with shares of Stock that are not subject to any repurchase, forfeiture, unfulfilled vesting, or other similar requirements. The maximum number of shares of Stock that may be withheld from any Award to satisfy any federal, state or local tax withholding requirements upon the exercise, vesting, or lapse of restrictions applicable to any Award or payment of shares of Stock pursuant to such Award, as applicable, may not exceed such number of shares of Stock having a Fair Market Value equal to the minimum statutory amount required by the Company or the applicable Affiliate to be withheld and paid to any such federal, state or local taxing authority with respect to such exercise, vesting, lapse of restrictions, or payment of shares of Stock. Notwithstanding **Section 2.21** or this **Section 18.3**, for purposes of determining taxable income and the amount of the related tax withholding obligation pursuant to this **Section 18.3**, for any shares of Stock subject to an Award that are sold by or on behalf of a Grantee on the same date on which such shares may first be sold pursuant to the terms of the related Award Agreement, the Fair Market Value of such shares shall be the sale price of such shares on such date (or if sales of such shares are effectuated at more than one sale price, the weighted average sale price of such shares on such date), so long as such Grantee has provided the Company, or its designee or agent, with advance written notice of such sale. In such case, the percentage of shares of Stock withheld shall equal the applicable minimum withholding rate.

### **18.4 Captions.**

The use of captions in the Plan or any Award Agreement is for convenience of reference only and shall not affect the meaning of any provision of the Plan or such Award Agreement.

### **18.5 Construction.**

Unless the context otherwise requires, all references in the Plan to "including" shall mean "including, without limitation."

### **18.6 Other Provisions.**

Each Award granted under the Plan may contain such other terms and conditions not inconsistent with the Plan as may be determined by the Committee, in its sole discretion.

### **18.7 Number and Gender.**

With respect to words used in the Plan, the singular form shall include the plural form and the masculine gender shall include the feminine gender, as the context requires.

### **18.8 Severability.**

If any provision of the Plan or any Award Agreement shall be determined to be illegal or unenforceable by any court of law in any jurisdiction, the remaining provisions hereof and thereof shall be severable and enforceable in accordance with their terms, and all provisions shall remain enforceable in any other jurisdiction.

### **18.9 Governing Law.**

The validity and construction of the Plan and the instruments evidencing the Awards hereunder shall be governed by, and construed and interpreted in accordance with, the laws of the State of Delaware, other than any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of the Plan and the instruments evidencing the Awards granted hereunder to the substantive laws of any other jurisdiction.

### **18.10 Section 409A of the Code.**

The Company intends to comply with Code Section 409A, or an exemption to Code Section 409A, with regard to Awards hereunder that constitute nonqualified deferred compensation within the meaning of Code Section 409A. To the extent that the Company determines that a Grantee would be subject to the additional twenty percent (20%) tax imposed on certain nonqualified deferred compensation plans pursuant to Code Section 409A as a result of any provision of any Award granted under the Plan, such provision shall be deemed amended to the minimum extent necessary to avoid application of such additional tax. The nature of any such amendment shall be determined by the Committee.

\* \* \*

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, D.C. 20549  
**FORM 10-K**

(Mark One)

☒ **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 001-33404

**WESTWATER RESOURCES, INC.**

(Exact name of registrant as specified in its charter)

**DELAWARE**

(State of Incorporation)

**75-2212772**

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

**6950 S. Potomac Street, Suite 300**  
**Centennial, Colorado**

(Address of principal executive offices)

**80112**

(Zip Code)

**(303) 531-0516**

(Registrant's telephone number, including area code)

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

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
Common Stock, par value \$0.001 per share	WWR	NYSE American

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 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the 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 (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

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

Large accelerated filer ☐

Accelerated filer ☐

Non-accelerated filer ☒

Smaller reporting company ☒

Emerging growth company ☐

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

Indicate by check mark whether the registrant 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 Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the Common Stock held by non-affiliates of the registrant at June 30, 2022 was approximately \$50,733,321. Number of shares of Common Stock, \$0.001 par value, outstanding as of March 6, 2023 was 49,900,642 shares.

Documents incorporated by reference: specified portions of Westwater Resources, Inc.'s Definitive Proxy Statement on Schedule 14A relating to its 2023 Annual Meeting of Stockholders are incorporated by reference into Part III where indicated. Westwater Resource, Inc.'s Definitive Proxy Statement will be filed with the U.S. Securities and Exchange Commission within 120 days after the end of the fiscal year to which this report relates.

**WESTWATER RESOURCES, INC.**  
**ANNUAL REPORT ON FORM 10-K**  
**FOR THE FISCAL YEAR ENDED DECEMBER 31, 2022**

**TABLE OF CONTENTS**

DEFINITIONS	3
USE OF NAMES	5
CURRENCY	5
CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS	6
STATEMENT REGARDING THIRD PARTY INFORMATION	7
PART I	8
ITEM 1. DESCRIPTION OF BUSINESS.	8
THE COMPANY	8
OUR STRATEGY	8
KEY BUSINESS AND CORPORATE DEVELOPMENTS IN 2022	9
OVERVIEW OF THE BATTERY GRAPHITE INDUSTRY	9
COMPETITION	12
WESTWATER'S GRAPHITE BUSINESS	12
CORE VALUES AND ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) CONSIDERATIONS	15
AVAILABLE INFORMATION	20
ITEM 1A. RISK FACTORS	20
ITEM 1B. UNRESOLVED STAFF COMMENTS	29
ITEM 2. PROPERTIES	29
INFRASTRUCTURE	34
INSURANCE	34
ITEM 3. LEGAL PROCEEDINGS	34
DISPUTE WITH FABRICE TAYLOR	34
ARBITRATION AGAINST TURKEY	34
OTHER	35
ITEM 4. MINE SAFETY DISCLOSURES	35
PART II	35
ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES	35
STOCK INFORMATION	35
ITEM 6. [RESERVED]	35
ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS	36
INTRODUCTION	36
SUMMARY OF RECENT DEVELOPMENTS	36
RESULTS OF OPERATIONS	37
FINANCIAL POSITION	38
ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK	41
ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA	41
ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.	62
ITEM 9A. CONTROLS AND PROCEDURES	62
EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES	62
MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING	62
ITEM 9B. OTHER INFORMATION	63
ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS	63
PART III	63
ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES	64
ITEM 16. FORM 10-K SUMMARY	66
SIGNATURES	67



## DEFINITIONS

When used in this Form 10-K, the following terms have the meaning indicated.

Term	Meaning
AGP	Alabama Graphite Products, LLC, an Alabama limited liability company and wholly owned subsidiary of Westwater Resources.
Alabama Graphite	Alabama Graphite Company, Inc., an Alabama corporation and wholly owned subsidiary of Westwater Resources.
ASC	FASB Accounting Standards Codification.
ASU	FASB Accounting Standards Update.
ATM Offering Agreement	Controlled Equity Offering Sale Agreement between Westwater Resources and Cantor Fitzgerald & Co. dated April 14, 2017.
Benchmark	Benchmark Mineral Intelligence.
Cantor	Cantor Fitzgerald & Co.
Coosa Graphite Deposit	The Company's graphite mineral deposit located near Rockford, Alabama.
DFS	The definitive feasibility study for Phase I of the Kellyton Graphite Plant which was completed in the fourth quarter of 2021.
enCore	enCore Energy Corp.
EU Critical Raw Minerals List	The list of raw materials that are crucial to the economy of the European Union published by the European Commission.
Exploration stage property	A property that has no mineral reserves disclosed.
Graphite	A naturally occurring carbon material with electrical properties that enhance the performance of electrical storage batteries, listed on the U.S. Critical Minerals List and the EU Critical Raw Materials List.
Gross acres	Total acreage of land under which we have mineral rights. May include unleased fractional ownership.
Indicated Mineral Resource	That part of a mineral resource for which quantity and grade or quality are estimated on the basis of adequate geological evidence and sampling. The level of geological certainty associated with an indicated mineral resource is sufficient to allow a qualified person to apply modifying factors in sufficient detail to support mine planning and evaluation of the economic viability of the deposit. Because an indicated mineral resource has a lower level of confidence than the level of confidence of a measured mineral resource, an indicated mineral resource may only be converted to a probable mineral reserve.
Inferred Mineral Resource	That part of a mineral resource for which quantity and grade or quality are estimated on the basis of limited geological evidence and sampling. The level of geological uncertainty associated with an inferred mineral resource is too high to apply relevant technical and economic factors likely to influence the prospects of economic extraction in a manner useful for evaluation of economic viability. Because an inferred mineral resource has the lowest level of geological confidence of all mineral resources, which prevents the application of the modifying factors in a manner useful for evaluation of economic viability, an inferred mineral resource may not be considered when assessing the economic viability of a mining project and may not be converted to a probable mineral reserve.

Initial Assessment	A preliminary technical and economic study of the economic potential of all or parts of mineralization to support the disclosure of mineral resources. The initial assessment must be prepared by a qualified person and must include appropriate assessments of reasonably assumed technical and economic factors, together with any other relevant operational factors, that are necessary to demonstrate at the time of reporting that there are reasonable prospects for economic extraction. An initial assessment is required for disclosure of mineral resources but cannot be used as the basis for disclosure of mineral reserves.
Kellyton Graphite Plant	The Company's planned battery-grade graphite processing facility near Kellyton, Alabama.
Lincoln Park	Lincoln Park Capital Fund, LLC.
Mineral Reserve	An estimate of tonnage and grade or quality of indicated and measured mineral resources that, in the opinion of the qualified person, can be the basis of an economically viable project. More specifically, it is the economically mineable part of a measured or indicated mineral resource, which includes diluting materials and allowances for losses that may occur when the material is mined or extracted.
Mineral Resource	A mineralized body which has been delineated by appropriately spaced drilling and/or underground sampling sufficient to support the estimate of tonnages and grade of the mineral deposit. Such a deposit does not qualify as a reserve, until a comprehensive evaluation based upon unit cost, grade, recoveries, and other material factors conclude legal and economic feasibility.
Ore	Naturally occurring concentration of mineralization from which a mineral or minerals of economic value can be extracted at a reasonable profit.
PFS	Pre-feasibility level study for Phase II of the Kellyton Graphite Plant.
Qualified Person	Individual who is: <ul style="list-style-type: none"> <li>(1) Mineral industry professional with at least five years of relevant experience in the type of mineralization and type of deposit under consideration and in the specific type of activity that person is undertaking on behalf of the registrant; and</li> <li>(2) An eligible member or licensee in good standing of a recognized professional organization at the time the technical report is prepared. For an organization to be a recognized professional organization, it must: <ul style="list-style-type: none"> <li>a. Be either: <ul style="list-style-type: none"> <li>i. An organization recognized within the mining industry as a reputable professional association; or</li> <li>ii. A board authorized by U.S. federal, state or foreign statute to regulate professionals in the mining, geoscience or related field;</li> </ul> </li> <li>b. Admit eligible members primarily on the basis of their academic qualifications and experience;</li> <li>c. Establish and require compliance with professional standards of competence and ethics;</li> <li>d. Require or encourage continuing professional development;</li> <li>e. Have and apply disciplinary powers, including the power to suspend or expel a member regardless of where the member practices or resides; and</li> <li>f. Provide a public list of members in good standing.</li> </ul> </li> </ul>
Roskill	Roskill Information Services Ltd.
SEC	Securities and Exchange Commission.

SEDAR	System for Electronic Document Analysis and Retrieval used for electronically filing most securities related information with the Canadian securities regulatory authorities.
SLR	SLR International Corporation.
SPG Fines	Spherical purified graphite fine material produced from SPG milling.
Spot price	The price at which a mineral commodity may be purchased for delivery within one year.
Surety obligations	A bond, letter of credit, or financial guarantee posted by a party in favor of a beneficiary to ensure the performance of its or another party's obligations, e.g., reclamation bonds, workers' compensation bond, or guarantees of debt instruments.
TRS	Technical Report Summary. A report prepared in accordance with Subpart 1300 of Regulation S-K promulgated by the SEC (or SK-1300) that discloses information concerning a registrant's mineral resources or mineral reserves by one or more qualified persons that, for each material property, identifies and summarizes the scientific and technical information and conclusions reached concerning an initial assessment used to support disclosure of mineral resources, or concerning a preliminary or final feasibility study used to support disclosure of mineral reserves.
ULTRA-CSPG™	Coated spherical purified graphite.
U.S. Critical Minerals List	The list of critical minerals that are crucial to the economy of the United States of America published by the Department of the Interior.
Vanadium	A rare-earth metal used as a strengthening alloy in steelmaking, and in certain types of batteries, listed on the U.S. Critical Minerals List.
Westwater Resources	Westwater Resources, Inc.
2020 Lincoln Park PA	Purchase Agreement dated as of December 4, 2020 between Westwater Resources and Lincoln Park Capital Fund, LLC.

## USE OF NAMES

In this Annual Report on Form 10-K, unless the context otherwise requires, the terms “we”, “us”, “our”, “WWR”, “Westwater”, “Corporation”, or the “Company” refer to Westwater Resources, Inc. and its subsidiaries. The Company changed its name from “Uranium Resources, Inc.” to “Westwater Resources, Inc.” effective August 21, 2017.

## CURRENCY

The accounts of the Company are maintained in U.S. dollars. All dollar amounts referenced in this Annual Report on Form 10-K and the consolidated financial statements are stated in U.S. dollars.

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

With the exception of historical matters, the matters discussed in this report are forward-looking statements that involve risks and uncertainties that could cause actual results to differ materially from projections or estimates contained herein. We intend such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. Such forward-looking statements include, without limitation, statements regarding the adequacy of funding, liquidity, access to capital, financing activities, the timing or occurrence of any future drilling or production from the Company's properties, economic conditions, the strategic goals of the business, arbitration matters, costs of Phase I of the Kellyton Graphite Plant and its estimated construction and commissioning timelines and completion dates, the outcome of the feasibility study and start date for the mining of the Coosa Graphite Deposit, and the Company's anticipated cash burn rate and capital requirements. Words such as "may," "could," "should," "would," "believe," "estimate," "expect," "anticipate," "plan," "forecast," "potential," "intend," "continue," "project," "target" and variations of these words, comparable words and similar expressions generally indicate forward-looking statements. You are cautioned not to place undue reliance on forward-looking statements. Actual results may differ materially from those expressed or implied by these forward-looking statements. Factors that could cause actual results to differ materially from these forward-looking statements include, among others:

- the spot price and long-term contract price of graphite (both flake graphite feedstock and purified graphite products) and vanadium, and the world-wide supply and demand of graphite and vanadium;
- the effects, extent and timing of the entry of additional competition in the markets in which we operate;
- our ability to obtain contracts or other agreements with customers;
- available sources and transportation of graphite feedstock;
- the ability to control costs and avoid cost and schedule overruns during the development, construction and operation of the Kellyton Graphite Plant;
- the ability to construct and operate the Kellyton Graphite Plant in accordance with the requirements of permits and licenses and the requirements of tax credits and other incentives;
- the effects of inflation, including labor shortages and supply chain disruptions;
- rising interest rates and the associated impact on the availability and cost of financing sources;
- the availability and supply of equipment and materials needed to construct the Kellyton Graphite Plant;
- stock price volatility;
- government regulation of the mining and manufacturing industries in the United States;
- unanticipated geological, processing, regulatory and legal or other problems we may encounter;
- the results of our exploration activities, and the possibility that future exploration results may be materially less promising than initial exploration results;
- any graphite or vanadium discoveries not being in high enough concentration to make it economic to extract the metals;
- our ability to finance growth plans;
- the potential effects of the continued COVID-19 pandemic;

- currently pending or new litigation or arbitration; and
- our ability to maintain and timely receive mining, manufacturing, and other permits from regulatory agencies.

For a more detailed discussion of such risks and other important factors that could cause actual results to differ materially from those in such forward-looking statements and forward-looking information, please see “*Item 1A. Risk Factors*” below in this Annual Report on Form 10-K. Although we have attempted to identify important factors that could cause actual results to differ materially from those described in forward-looking statements and forward-looking information, there may be other factors that cause results not to be as anticipated, estimated or intended. There can be no assurance that these statements will prove to be accurate as actual results and future events could differ materially from those anticipated in the statements. The forward-looking statements in this report are made as of the date of this filing, unless an earlier date is specified. Except as required by law, we assume no obligation to publicly update any forward-looking statements and forward-looking information, whether as a result of new information, future events or otherwise.

#### **STATEMENT REGARDING THIRD PARTY INFORMATION**

Certain information provided in this report has been provided to us by third parties or is publicly available information published or filed with applicable securities regulatory bodies, including the SEC and SEDAR. WWR has not verified, and is not in a position to verify, and expressly disclaims any responsibility for, the accuracy, completeness or fairness of such third-party information and refers the reader to the information publicly published or filed by the third parties for additional information.

## PART I

### ITEM 1. DESCRIPTION OF BUSINESS.

#### THE COMPANY

Westwater Resources, Inc., originally incorporated in 1977, is an energy technology company focused on developing battery-grade natural graphite materials after its acquisition of Alabama Graphite in 2018. Alabama Graphite holds mineral rights to explore and potentially mine the Coosa Graphite Deposit. During 2022, AGP, a wholly owned subsidiary of Westwater Resources, continued construction activities related to Phase I of the Kellyton Graphite Plant. In April of 2022, Alabama Graphite completed the initial drilling stage of its exploration program to further investigate the size and extent of graphite mineral concentrations at the Coosa Graphite Deposit. The Coosa Graphite Deposit is located near Rockford Alabama at 32 ° 54' 30" North and 86 ° 24' 00" West.

#### OUR STRATEGY

Our strategy is to increase shareholder value by advancing our battery-grade graphite business. The acquisition of Alabama Graphite in 2018 provides the Company with the opportunity to provide critical raw materials utilized by the growing market for electric automobiles, trucks and buses, consumer electronics, as well as grid-based storage devices. According to Benchmark Intelligence, in 2022, the global battery market demand for both natural and synthetic graphite was estimated at 517,997 tonnes per annum (or tpa) and demand is projected to increase at a compounded annual growth rate ("CAGR") of 17% over the next 10-year period.

Our goal for the graphite business is to develop a battery-graphite manufacturing business in Alabama that produces low-cost, high-quality, and high-margin graphite products for battery manufacturers. In 2020, we began operation of a pilot program, designed both to manufacture battery-grade graphite materials in quantities suitable for potential customer testing and to inform the DFS. Both the pilot program and DFS were completed during the fourth quarter of 2021, and construction activities on Phase I of the Kellyton Graphite Plant began in the fourth quarter of 2021. In response to increasing customer demand and market conditions, the Company has completed an optimization of the original DFS to increase the expected production for Phase I of the Kellyton Graphite Plant. As a result of this optimization, the Company now expects production capacity for Phase I of the Kellyton Graphite Plant of 16,000 mt per year, and expected CSPG production of 7,500 mt per year. The Company now estimates the total costs for Phase I construction to be approximately \$271 million compared to the original estimate of \$202 million. Further, the Company now expects to begin testing and commissioning of Phase I in late 2023, and first production to occur in the first half of 2024, subject to securing the additional funding to complete construction. Additionally, we expect to complete the Phase I optimization in the second half of 2024 to increase the expected production capacity of Phase I of the Kellyton Graphite Plant. For additional information regarding the Kellyton Graphite Plant see *Item 2, Properties*.

We continue to engage with potential customers across a number of markets including automotive companies and lithium-ion battery manufacturers. Based on the positive feedback we have received to date from our potential customers, we continue to provide new or additional samples utilizing our pilot program. We believe that the Inflation Reduction Act, which sets a minimum domestic content threshold for the percentage of the value of applicable critical minerals contained in the battery of the electric vehicles, is beneficial to the domestic graphite industry and will provide additional benefit to the Company as it continues to engage with potential customers. Since the passing of the Inflation Reduction Act in August 2022, the interest of potential customers has intensified as we move towards domestic production of battery-grade natural graphite materials.

Additionally, we hold mineral rights to 41,965 acres for future mining development. The graphite deposit at the Coosa Graphite Deposit is expected to serve as future feedstock for the Kellyton Graphite Plant and provide in-house quality assurance and quality control ("QA/QC") for raw-material inputs. Subject to further exploration, its own definitive feasibility study, the availability of financing, and regulatory approvals, the Coosa Graphite Deposit and related mining operation is expected by the end of 2028. The Coosa Graphite Deposit also contains vanadium mineral concentrations, which the Company plans to explore and evaluate the technical feasibility of extracting and processing in the future.

Currently, the Company is not including any potential benefit related to vanadium in its economic models or resource estimates.

Our project pipeline is prioritized with a goal of achieving sustainable battery-grade graphite production over time to take advantage of rising and/or high price environments for battery materials. We may adjust near-term and long-term business priorities in accordance with market conditions.

We believe our broad base of mining and processing expertise related to graphite, base and precious metals is one of our key competitive advantages. We also believe that Westwater possesses a unique combination of battery-materials knowledge and extensive project-execution experience, coupled with decades of capital markets expertise which makes our business a powerful presence in the new energy marketplace. We intend to advance the Company's project towards production, while prudently managing our cash and liquidity position for financial flexibility.

## **KEY BUSINESS AND CORPORATE DEVELOPMENTS IN 2022**

### ***Construction Progress on Phase I of the Kellyton Graphite Plant***

Construction activities in 2022 consisted of selecting a general contractor, completing earthwork and site grading, and continuing engineering and design work. In 2022, the Company also began installing underground utilities, completed building foundations, and began erecting manufacturing buildings of the Kellyton Graphite Plant. Construction activity during the year also included receipt of certain long-lead equipment items. For full details regarding the Kellyton Graphite Plant see additional details below.

### ***Coosa Graphite Deposit Technical Report Summary***

The mineral resource estimate for the Coosa Graphite Deposit, based on 205 drill holes totaling 39,434 ft., was completed by SLR on November 30, 2022 as an Initial Assessment in accordance with Subpart 1300 of Regulation S-K promulgated by the SEC (or S-K 1300). For further information regarding this Technical Report Summary and the Coosa Graphite Deposit, refer to *Item 2, Properties*, below.

## **OVERVIEW OF THE BATTERY GRAPHITE INDUSTRY**

Graphite is the name given to a common form of the element carbon. Occurring naturally as a mineral in deposits around the world, graphite is used in many industrial applications. These end uses take advantage of graphite's natural characteristics, which include high lubricity, high resistance to corrosion, the ability to withstand high temperatures while remaining highly stable, and excellent conductivity of heat and electricity.

In recent years, graphite has become an essential component in the production of all types of electrical storage batteries. Graphite's role will continue to be important as demand for these batteries increases and with the world's growing electric vehicle and energy-storage needs. Natural battery-ready graphite products are derived from flake graphite that has been transformed through a series of specialty downstream processes into various battery graphite products. These processes include, but are not limited to:

- Micronization (sizing)
- Purification to battery-grade carbon with graphitic ( $C_g$ ) content of  $\geq 99.95\%$
- Spheroidization (shaping) and classification (sorting); and
- Surface treatment (carbon coating).

Natural flake graphite is increasingly supplanting or supplementing the use of synthetic graphite in battery applications for cost and performance reasons. Through a series of sophisticated and precise processing steps, flake-

graphite concentrates are transformed into high-value end products for the battery industry. Coated spherical purified graphite is used as a graphite anode or anode active material in lithium-ion batteries.

The global battery market demand for natural graphite in 2022 was 221,636 tpa (Benchmark, 2022). The greatest share of this market is made up of four battery-market segments that require advanced battery-grade graphite products:

- **Lithium-Ion batteries** — these are the most technologically advanced batteries used in everything from mobile phones and hand tools to laptop computers and electric vehicles, particularly because of the rechargeable nature of the batteries. Demand for lithium-ion batteries, related specifically to electric vehicles, accounted for 79% of natural graphite demand in 2022, and is projected to grow to 89% by 2032 (Benchmark, 2022).
- **Alkaline batteries** — these are the most popular consumer batteries in the world, with a global market size of approximately \$7.8 billion in 2021 and a projected CAGR of 4.9% from 2022 through 2028 (Fortune Business Insights, 2022).
- **Lead Acid batteries** — these are the workhorse batteries used in automobiles, backup power supplies, and other energy-storage applications where weight is less important than capacity. The global lead acid battery market was estimated at approximately \$83.1 billion in 2021 and a projected CAGR of 2.6% from 2022 through 2030 (Global Market Insights, 2022).
- **Primary Lithium batteries** — these are non-rechargeable, lightweight lithium-based batteries, and are typically used in flashlights, smoke detectors, and other small device applications where long life and lightweight matter most.

Graphite is a critical, non-substitutable constituent in these listed battery segments. According to Benchmark Intelligence, the need for graphite to support the battery market is expected to grow over the next decade. Total graphite demand is expected to reach 2,924,411 tpa in 2032, of which over 1,580,108 tpa are projected to be natural graphite.

Competition between natural and synthetic graphite is expected to continue in lithium-ion batteries with differentiation between the two based on price, performance, and availability. Common precursor materials in the production of synthetic graphite come from either petroleum needle coke, or coal needle coke. However, synthetic graphite and natural graphite blends are becoming popular choices for electric vehicle applications to optimize performance and cost by taking advantage of each graphite attribute, such as cycle life, energy density, and cost. Synthetic graphite consumption by anode manufacturers is expected to grow because of the concentration of the graphite industry in China; however, natural flake graphite demand is forecasted to grow at a higher rate because of natural graphite's performance and cost efficiencies.

In addition, natural graphite flake and purification costs in China have increased due to environmental factors (hydrofluoric acid handling cost) and China has become one of the major importers of natural graphite flake, relying upon less expensive African sources. China also poses a geopolitical risk, particularly to the EU and U.S. regions.

Overall battery consumption is rising at an accelerated growth rate due to recent and robust developments in electric-automobile markets, personal electronic devices, electrical grid storage, and is an enabling technology for wind and solar power installation. The global shift towards low- and zero-emissions vehicles and power sources is expected to drive increasing demand for graphite-battery materials for the foreseeable future. Recent developments in this sector include:

- The United Kingdom and France have announced a prohibition on the sale of gasoline- and diesel-powered vehicles by 2030 and 2040, respectively. Electric vehicles using battery storage are currently the only viable technology that can satisfy the demands for new cars required by these nations.



- The states of New York and California have adopted regulations requiring all new vehicles sold in those states to be zero emissions by 2035. The requirements would apply to all new cars, pickup trucks, and SUVs.
- Automobile companies are publicly announcing plans to transition to fully electric vehicles within the next 20 years. Many are developing and distributing electric-based technology to replace internal-combustion engines.
- Battery manufacturers and major automobile companies have announced plans to develop 14 different battery manufacturing facilities in the United States with more development in the pipeline.
- Governments around the world, including the United States, continue to incentivize electric vehicle ownership through subsidies and other incentives.
- The installed base of wind and solar power electrical-generating systems is increasing every year. Grid battery storage is increasing system reliability, and as a result of these catalysts, and according to Roskill, the lithium-ion battery market is expected to grow at a CAGR of over 20%.

Currently, the primary source of battery-grade graphite is from China, presenting the global battery industry with significant risks, including supply chain management risks, economic risks, geopolitical risks, and environmental sustainability concerns. Also, critical domestic production is lacking in the United States. A Presidential Executive Order signed on September 30, 2020 includes graphite on a list of minerals critical to the safety and security of the United States. With limited current domestic natural graphite production of any kind, the United States is presently required to source most of its battery graphite from China. On February 24, 2021, the President signed another Executive Order that seeks to promote more resilient supply chains, to revitalize and rebuild domestic manufacturing capacity, and maintain America's competitive edge in research and development. The 2021 Executive Order tasked the Secretary of Energy, as part of a larger study involving several branches of the United States government, to submit a report identifying risks to the supply chain for high-capacity batteries including those that power electric vehicles. On June 8, 2021, the White House released a response to the findings of this study in support of securing an end-to-end domestic supply chain for advanced batteries, including investment in domestic production and processing of critical minerals. Key recommendations in the June 8, 2021 release include, among other things, providing funding and financial incentives to encourage consumer adoption of electric vehicles, providing financing to support advanced battery production, and investing in the development of next-generation batteries.

On March 31, 2022, President Biden invoked the Defense Production Act to encourage the domestic production of critical materials, including graphite, for advanced batteries for electric vehicles and clean energy storage. On August 16, 2022, President Biden signed into law the Inflation Reduction Act ("IRA"). This legislation includes an investment of approximately \$370 billion in climate programs. The IRA provides a 10% tax credit for the costs of producing certain critical minerals, including graphite and vanadium. This credit is eligible for direct pay and is also transferable to unrelated taxpayers. In addition, a key provision of the IRA that could indirectly benefit the Company is the Clean Vehicle credit. The IRA eliminates the previous limitation on the number of electric vehicles a manufacturer can sell before the Clean Vehicle credit is phased out or eliminated. Further, the IRA sets a minimum domestic content threshold for the percentage of the value of applicable critical minerals contained in the battery of the electric vehicles. Because Westwater intends to produce battery grade graphite for lithium-ion batteries to be used in electric vehicles in the United States, management believes the domestic content requirement could provide indirect future benefit to the Company.

The State of Alabama and local municipalities have entered into incentive agreements with the Company for the siting of the Company's proposed graphite processing plant in Coosa County, Alabama. The incentive agreements provide certain tax credits and incentives under the Alabama Jobs Act in connection with the construction of the Kellyton Graphite Plant.

Westwater has developed graphite-purification technology and advanced product-development processes designed to meet the demands of potential customers for battery-grade graphite materials. Westwater is developing methodologies and constructing facilities intended to produce high-purity, battery-grade graphite products at its Kellyton Graphite Plant. These products are designed to serve all major battery sectors. In addition, we believe the processes we

intend to use are environmentally sustainable and permissible in the United States, where a robust regulatory environment complements our core values to reliably deliver safe, well-made products to our customers.

Westwater has and will continue to support the efforts by the relevant United States governmental agencies, the State of Alabama and local municipalities to ensure that they remain aware of the importance of natural battery-grade graphite, its importance to the nation's security, and how the Kellyton Graphite Plant and the Coosa Graphite Deposit fit into the critical minerals-equation.

## **COMPETITION**

In the production and marketing of graphite, there are a number of producing entities globally, some of which are government controlled and several of which have significant capitalization. Approximately 75% of natural graphite global supply comes from China (Benchmark, 2022).

With respect to sales of graphite, the Company expects to compete primarily based on price. We intend to market graphite directly to users of the product. We are in direct competition with supplies available from various sources worldwide. We compete with multiple graphite exploration, development and production companies.

## **WESTWATER'S GRAPHITE BUSINESS**

### ***Kellyton Graphite Plant***

On June 22, 2021, AGP entered into incentive agreements with the State of Alabama and local municipalities for the siting of the Kellyton Graphite Plant near Kellyton, Alabama. The incentive agreements provide certain tax credits and incentives under the Alabama Jobs Act in connection with the construction of the Kellyton Graphite Plant.

On July 23, 2021, AGP executed a land lease with the Lake Martin Area Industrial Development Authority, providing AGP rights to approximately 70 acres to construct and operate the Kellyton Graphite Plant. The lease has a term of 10 years, a nominal lease payment, and transfer of title to AGP at the end of the lease term. Further, the lease provides AGP the option to purchase the land for a nominal amount during the term of the lease.

On October 13, 2021, AGP completed the purchase of two buildings that total approximately 90,000 sq. ft. to support the development of the Kellyton Graphite Plant. The build out of one of these building was completed in April of 2022 and is being used for administrative offices and will include a laboratory space as well. The other building is being used for the control room, the maintenance shop, shipping and receiving and as warehousing space. Both buildings are adjacent to the Kellyton Graphite Plant.

Westwater plans to develop the Kellyton Graphite Plant in two phases (Phases I and II).

Phase I: Based upon the Company's optimization plan, after testing and commissioning is completed, the Kellyton Graphite Plant is now expected to have capacity to produce approximately 16,000 mt per year of two products, ULTRA-CSPG™ and SPG Fines. After processing and purification, the plant is expected to have capacity to produce the two products in the following quantities:

- ULTRA-CSPG™: 7,500 mt per year
- SPG Fines: 8,500 mt per year

Phase II: Upon completion of the Phase II expansion, the annual capacity of the Kellyton Graphite Plant is now expected to increase to approximately 86,500 mt of two products in the following quantities:

- ULTRA-CSPG™: 40,500 mt per year
- SPG Fines: 46,000 mt per year

Construction activities for Phase I of the Kellyton Graphite Plant began in the fourth quarter of 2021 and will continue in 2023. The Company expects to begin testing and commissioning of Phase I in late 2023, and first production to occur in the first half of 2024, subject to securing the additional funding to complete construction. Additionally, we expect to complete the Phase I optimization in the second half of 2024 to increase the expected production capacity of Phase I of the Kellyton Graphite Plant. The Company intends to initiate a definitive feasibility study for Phase II upon, or before, the completion of Phase I.

### ***Spheroidization, Purification and Post-Processing Activities***

The Company will process natural graphite concentrate at the Kellyton Graphite Plant through a combination of sizing, shaping, spheroidization, and classification. Once completed, the purification is expected to be performed using a proprietary purification process that was developed and tested during our pilot program by Dorfner Anzaplan and other engineering consultants. The process uses a combination of technologies including a caustic bake, acid leach and thermal finishing, a process that allows for a smaller and more sustainable environmental footprint than that of a hydrofluoric acid leaching system as used by other graphite processing companies. Once the graphite is purified to a minimum graphite carbon content of 99.95%, we will then coat the SPG to manufacture the advanced graphite products we intend to sell. This unique application process developed by Westwater is the subject of a patent application that has been filed in the U.S. Patent and Trademark Office.

We currently purchase available graphite flake concentration from a qualified supplier to serve as plant feedstock for the Kellyton Graphite Plant while the Coosa Graphite Deposit is being evaluated, permitted, and developed for future mining operations. Development of a mine at the Coosa Graphite Deposit, expected by the end of 2028, is expected to serve as an in-house source of graphite feedstock and will provide in-house QA/QC for raw-material inputs.

### ***Coosa Graphite Deposit***

Westwater acquired Alabama Graphite in 2018 as part of a strategic decision to refocus the Company to supply battery manufacturers with low-cost, high-quality, and high-margin graphite products. As part of that transaction, Westwater became the owner of mineral lease rights over the Coosa Graphite Deposit, located near Rockford, Alabama, 50 miles southeast of Birmingham. For further detail on the Coosa Graphite Deposit refer to *Item 2, Properties*, below.

### ***Mining Method***

The Coosa Graphite Deposit is expected to be mined by conventional small-scale open-pit mining methods.

### ***Concentrate Plant***

Mineralized material from the Coosa Graphite Deposit is projected to have an average grade of approximately 3.04% Cg, and is expected to contain impurities consisting of quartz, muscovite, iron oxides and calcite. Most of the impurities are present on the surfaces of the graphite flakes and can be easily removed during a metallurgical process known as flotation. Flotation processing maximizes the removal of these impurities while avoiding degradation of graphite flakes.

Further development work at the Coosa Graphite Deposit is expected to result in the design and construction of a milling and concentration plant.

### ***Products and Business Development***

The Company is working to develop products for potential major battery markets. Based on discussions with potential customers, Westwater will focus on the production of ULTRA-CSPG™ and SPG fines during Phase I of the Kellyton Graphite Plant and expects to evaluate the production of additional products in Phase II, subject to market demand and customer interest.

The Company plans to focus on supply for several different battery types, including lithium-ion batteries, lead-acid batteries, alkaline batteries, and primary-lithium batteries. The Company has ongoing discussions with multiple potential customers, including battery manufacturers, and automobile manufacturers, with the goal of executing multi-year supply agreements. To date, the Company has executed Non-Disclosure Agreements with potential customers and has executed five letters of intent across multiple product lines, which are subject to customary conditions and quality and packaging specifications to be included in future definitive agreements. The Company has also entered into an agreement with a Tier 1 battery manufacturer for electric vehicles. Under the agreement, the parties will work together to ensure that the ULTRA-CSPG™ that is expected to be produced at the Kellyton Graphite Processing Plant can be used as a high-performance anode material for the customer's batteries. Subject to those efforts, the parties expect to negotiate another agreement that will allow for the sale of potentially all graphite anode material from the Kellyton Graphite Processing Plant for those batteries.

### ***Regulation***

Graphite extraction and processing is regulated by the federal and state governments. Compliance with such regulations has a material effect on the economics of our operations and the timing of project development. Our primary regulatory costs have been, and are expected to relate to, obtaining licenses and operating permits from federal and state agencies before the commencement of production activities, as well as the cost for continuing compliance with licenses and permits once they have been issued. The current environmental and technical regulatory requirements for the graphite extraction and processing industry are well established. However, the regulatory process can make permitting difficult and timing unpredictable.

U.S. regulations pertaining to graphite extraction and processing may evolve in the U.S. However, at this time we do not anticipate any adverse impact from these regulations that would be unique to our operations.

### ***Kellyton Graphite Plant***

For construction and operations of the Kellyton Graphite Plant, the Company is required to obtain permits related to air emissions, water discharge, storm water drainage, and possibly other regulated waste. On January 31, 2022, Westwater announced that it had received its National Pollutant Discharge Elimination System ("NPDES") construction stormwater permit, which was required to commence site grading for the Kellyton Graphite Plant. The NPDES permit has been issued by the State of Alabama under NPDES to ensure Westwater's construction efforts comply with the Federal Clean Water Act as it relates to regulated disturbances and any stormwater runoff from the Kellyton Graphite Plant site.

In June 2022 and August 2022, the Company received its air permit and its State Indirect Discharge ("SID") permit for the treatment of wastewater from the Alabama Department of Environmental Management, respectively. Consequently, the Company has all necessary permits to complete the construction of Phase I of the Kellyton Graphite Plant.

### ***Coosa Graphite Deposit***

Graphite mining and processing in Alabama requires various permits, including those for any emissions to air, water, or other aspects of the environment. Permits may be required from the State of Alabama, the U.S. Environmental Protection Agency, the Army Corps of Engineers, and other state and federal agencies. Specifically, to mine the Coosa Graphite Deposit, permits may be required in accordance with the Alabama Surface Mining Act of 1969, which is administered by the Alabama Department of Labor ("DoL"). DoL issues mining permits, ensures that mine sites are properly bonded for reclamation purposes, and makes periodic inspections. The Company is currently in the process of determining the requirements for posting surety or negotiable bonds related to the area to be disturbed. Future mining operations at the Coosa Graphite Deposit may be subject to the U.S. National Environmental Policy Act process, with potential review by various federal agencies that may include the U.S. Environmental Protection Agency, the Army Corp of Engineers, and others.

In Alabama, any surface or groundwater withdrawals are managed through the Alabama Water Use Reporting Program. The Alabama Water Resources Act and associated regulations establish the requirements for water withdrawals.

The process begins with the submission of an application form called a “Declaration of Beneficial Use” and other required information to the Office of Water Resources (“OWR”) within the Alabama Department of Economic and Community Affairs. Once application information is reviewed and determined to be complete, OWR will issue a Certificate of Use (“COU”) that lists the applicant’s name and information concerning all registered surface and/or groundwater withdrawal points and their withdrawal information. Entities with a capacity to withdraw more than 100,000 gallons per day are required to register with OWR and obtain a COU. The COU certifies that proposed water use will not interfere with existing water use and is beneficial. The Company anticipates evaluating the future need for a COU during its development of a detailed mine plan.

## **CORE VALUES AND ENVIRONMENT, SOCIAL AND GOVERNANCE (“ESG”) CONSIDERATIONS**

Westwater’s core values incorporate ESG principles and drive our business and operations. Westwater’s core values are:

- Safety:
  - Of each other
  - Of our environment
  - Of the communities where we work
  - Of our assets
  - Of our reputation
- Cost Management
  - Effective and efficient use of our shareholders’ assets
  - Focus on cost performance
- Reliability and Integrity
  - Highest level of performance every day
  - Improving our processes
  - Conservative promises well kept

The Company works to be a good corporate citizen and to safeguard our employees, operations, neighbors and the local communities in which our employees and stakeholders live and work.

Further, Westwater intends to report its sustainability in accordance with the applicable guidelines established by the Sustainability Accounting Standards Board (“SASB”). The SASB is an independent, private sector standards-setting organization dedicated to enhancing the efficiency of the capital markets by fostering high-quality disclosure of material sustainability information.

### ***Environmental Criteria and Actions***

The DFS for Phase I of the Kellyton Graphite Plant was completed in October 2021. As part of the DFS, we have defined the raw material inputs, energy inputs, product streams, and waste streams, including air, water, solids and heat, for processing our graphite into battery products. Integrated into these input and output streams, we are defining methods of reducing impacts to our environment, including:

- Assessing the origin of our graphite and its impact to the environment.
- Assessing the supply chain for reagents and their impact to the environment.
- Assessing the energy forecasted for use in the manufacturing of our products.
- Performing trade off studies for recycling our reagents and waste streams in an effort to reduce our impact to the communities where we work and where we source our input materials.

*Greenhouse gas emissions:* Estimates are being quantified and are expected to be finalized through detailed design work. During the testing and commissioning of Phase I of the Kellyton Graphite Plant, Westwater expects to commence monitoring, measuring, and to begin continuous improvement efforts related to its greenhouse gas emissions.

*Air quality:* Estimates are being quantified and are expected to be finalized in 2023.

*Energy consumption:* Estimates are being quantified and are expected to be finalized in 2023.

*Wastewater management:* We expect that the Kellyton Graphite Plant will not have surface water connections to waters of the United States, nor are there any such jurisdictional waters of the United States at the Kellyton Graphite Plant. In August 2022, the Company received its SID permit for the treatment of wastewater from the Alabama Department of Environmental Management. Under the SID, the Company provides an agreed upon wastewater profile to be processed by the local wastewater treatment plant. The Company plans to pretreat the wastewater from the Kellyton Graphite Plant through recycling, neutralizing and filtering to ensure it meets the requirements under the SID.

### ***Social Criteria and Actions***

As part of our Kellyton Graphite Plant design and analysis we are evaluating community needs, with input from the local stakeholders, and our ability to support them – whether in education, infrastructure, or in other ways applicable to community needs. Through the Alabama Industrial Training (“AIDT”) program, the Company is eligible to receive a cash reimbursement for the design of a customized plan for the recruitment, screening, and training new employees. In addition to the cash reimbursement for training, AIDT offers in-kind services, which includes items such as assistance with a pre-employment selection system, maintenance assessments, safety assistance and training, and robotic and programable logic controller automation training.

During 2022, Westwater held “townhall” meetings with the local community in Coosa County, Alabama, to maintain open and transparent communication as well as to hear and work to address any concerns of the community. In April, the Company held a groundbreaking ceremony that was attended by state and local government officials and business leaders. In addition, the Company participated in a community service project, in July, to help with general cleanup of a local school. The Company also hosted a first responders luncheon in October that included a tour of the Kellyton Graphite Plant for over 100 first responders and local officials to show appreciation to those helping within the local community.

Westwater has a strong history in social license. The Company spent eight years providing scholarships to family members of the Cebolleta and Juan Tafoya Land Grants in New Mexico, where we previously had operations. We have supported this scholarship effort over the years to ensure that young people are afforded an opportunity to attend colleges and universities. As a result of this work, students in Veterinary Medicine, Mining Engineering, Nursing, Pharmacology, Criminal Justice and Business Management have been able to further their education.

### ***Westwater Team and Culture (Human Capital)***

Our team and culture are keys to our success. Management aims to foster a diverse, equitable and inclusive culture. We believe that a diverse workforce provides different viewpoints on business strategy, risk and innovation. We are committed to fostering solid relationships with all members of our workforce based on trust, treating workers fairly and providing them with safe and healthy working conditions. Our team is defined by a commitment to our mission, vision, and values, which includes providing a great place to work for teammates, being a good neighbor in the communities where we work and live, and being a good steward for our investors.

Westwater’s Board of Directors and management team has focused on hiring, succession planning and talent development to produce a strong team. On January 16, 2023, the Board of Directors appointed Frank Bakker as Westwater’s Chief President and Chief Executive Officer. Mr. Bakker is an experienced executive with a proven track record in engineering, project management, and plant construction and operations for large-scale process facilities that produce a wide variety of industrial products. Mr. Bakker has built and operated a number of processing plants that process ammonia, elastomers, methanol, and resins. Since the fall of 2022, Mr. Bakker has been managing the construction activities at the Kellyton Graphite Plant.

On May 10, 2021, after completing a comprehensive search process, Westwater hired Steven M. Cates as Westwater’s Chief Accounting Officer and Controller. On June 23, 2022, following the announced retirement of Jeffrey L. Vigil, Chief Financial Officer and Vice President of Finance of the Company, the Board of Directors elected Mr. Cates

Chief Financial Officer and Vice President of Finance effective August 26, 2022, and subsequently promoted Mr. Cates to Senior Vice President of Finance and Chief Financial Officer on January 16, 2023.

Further, on February 26, 2022, the Board of Directors elected John W. Lawrence as the Company's General Counsel and Corporate Secretary. Mr. Lawrence had been serving, in a contractual capacity, as the Company's General Counsel since October 2012 and as the Company's Corporate Secretary since May 2013. On January 16, 2023, Mr. Lawrence was promoted to Chief Administrative Officer while retaining his other roles. Mr. Lawrence has forty years of legal and engineering experience for publicly traded companies.

As of December 31, 2022, 34 people were employed at Westwater.

Consistent with our core value of safety for each other, Westwater offers employment benefits including medical insurance, paid time off, sick leave, and retirement plans for all teammates, and a bonus structure at all salaried levels of the organization. Additionally, we have a history of supporting the professional development of members of our workforce including financial support to those wishing to obtain advance degrees, as well as leadership seminars and training.

### ***Governance Criteria and Factors***

#### *Board of Directors*

The Company's business and affairs are overseen by the Board pursuant to the Delaware General Corporation Law and the Company's charter documents. Members of the Board are kept informed of the Company's business through discussions with the President and Chief Executive Officer and key members of management, by reviewing materials provided to them and by participating in Board and Committee meetings. All members of the Board are elected annually by the stockholders.

Regular attendance at Board meetings and the Annual Meeting of Stockholders is expected of each director. Our Board held 10 meetings during 2022. All directors attended all meetings of the Board and applicable Committees held during the period that such director served in 2022. The independent directors met in executive session at several of the Board meetings held in 2022. All of the directors in office at the time attended the 2022 Annual Meeting of Stockholders.

#### *Board Leadership Structure*

The Company's governing documents allow the roles of Chairman and Chief Executive Officer to be filled by the same or different individuals. This approach allows the Board flexibility to determine whether the two roles should be separate or combined based upon the Company's needs and the Board's assessment of the Company's leadership from time to time. Currently, Terence J. Cryan serves as Executive Chairman and Frank Bakker serves as Chief Executive Officer.

#### *Safety and Sustainability Committee (previously the Health, Safety, and Environmental Committee)*

We have a Safety and Sustainability Committee that reports directly to the entire Board of Directors of Westwater. The Safety and Sustainability Committee held two meetings in 2022. The Committee's charter reads, in part:

The Committee's primary purposes are to:

- provide advice, counsel and recommendations to management on:
  - health, safety, loss prevention issues and operational security, and
  - issues relating to sustainable development, environmental management and affairs, community relations, human rights, government relations and communications; and

- assist the Board in its oversight of:
  - health, safety, loss prevention and operational security issues relating to the Company;
  - sustainable development, environmental affairs, relations with communities and civil society, government relations, communications issues and human rights relating to the Company;
  - the Company's compliance with regulations and policies that provide processes, procedures and standards to follow in accomplishing the Corporation's goals and objectives relating to:
    - health, safety, loss prevention issues and operational security ,and
    - sustainable development, environmental management affairs, community relations, human rights, government relations and communications issues; and
  - management of risk related thereto.

The Safety and Sustainability Committee has direct experience in managing ISO 14001 Environmental Management Systems ("EMS"). These systems are designed to provide for reliable performance in sustainable management of businesses. We are committed to the continual improvement of the EMS, according to compliance obligations, by following the principles and requirement of ISO 14001. After the completion of our Phase I DFS, management has designed ISO 14001 based management systems to facilitate and govern our environmental performance. This effort includes the establishment of a preliminary set of metrics for measuring that performance.

#### *Audit Committee*

We have a separately-designated Audit Committee composed solely of independent directors. The Audit Committee held four meetings in 2022.

The Audit Committee's primary responsibilities are to:

- assist the Board in discharging its responsibilities with respect to the accounting policies, internal controls and financial reporting of the Company;
- monitor compliance with applicable laws and regulations, standards and ethical business conduct, and the systems of internal controls;
- assist the Board in its oversight of the qualifications, independence and performance of the registered public accounting firm engaged to be the independent auditor of the Company; and
- prepare the Audit Committee report required to be included in the Company's proxy statements.

#### *Compensation Committee*

The Compensation Committee held three meetings and had several informal discussions in 2022. The Compensation Committee is responsible for assisting the Board in setting the compensation of the Company's directors and executive officers and administering and implementing the Company's incentive compensation plans and equity-based plans.



### *Nominating and Governance Committee*

The Nominating and Corporate Governance Committee held one meeting during 2022, and its duties and responsibilities are to:

- recommend to the Board director nominees for the annual meeting of stockholders;
- identify and recommend candidates to fill vacancies occurring between annual stockholder meetings; and
- oversee all aspects of corporate governance of the Company.

The Nominating and Corporate Governance Committee of the Board identifies director candidates based on input provided by a number of sources, including members of the Nominating and Corporate Governance Committee, other directors, our stockholders, members of management and third parties. The Nominating and Corporate Governance Committee does not distinguish between nominees recommended by our stockholders and those recommended by other parties. Any stockholder recommendation must be sent to the Secretary of Westwater Resources, Inc. at 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112, and must include detailed background information regarding the suggested candidate that demonstrates how the individual meets the Board membership criteria discussed below. The Nominating and Corporate Governance Committee also has the authority to consult with or retain advisors or search firms to assist in the identification of qualified director candidates.

As part of the identification process, the Nominating and Corporate Governance Committee takes into account each candidate's business and professional skills, experience serving in management or on the board of directors of companies similar to the Company, financial literacy, independence, personal integrity and judgment. In conducting this assessment, the Nominating and Corporate Governance Committee will, in connection with its assessment and recommendation of candidates for director, consider diversity (including, but not limited to, gender, race, ethnicity, age, experience and skills) and such other factors as it deems appropriate given the then-current and anticipated future needs of the Board and the Company, and to maintain a balance of perspectives, qualifications, qualities and skills on the Board. The Board does not have a formal diversity policy for directors. However, the Board is committed to an inclusive membership. Although the Nominating and Corporate Governance Committee may seek candidates that have different qualities and experiences at different times in order to maximize the aggregate experience, qualities and strengths of the Board members, nominees for each election or appointment of directors will be evaluated using a substantially similar process. Incumbent directors who are being considered for re-nomination are re-evaluated both on their performance as directors and their continued ability to meet the required qualifications.

### *Board Diversity*

Westwater's Board of Directors is comprised of five directors, three of whom are independent, and currently has diverse gender representation. In 2021, Westwater was acknowledged by, and received an award from, BoardConnect by the Women's Leadership Foundation for achieving gender balance on its Board of Directors.

### *Covid-19*

The COVID-19 pandemic has not had a significant impact on Westwater's business activities. Prior to March 1, 2021, Westwater reduced utilization of its offices and instituted remote working arrangements to ensure that some employees were able to work remotely using systems that already were in place. On March 1, 2021, Westwater reopened its Centennial, Colorado corporate offices and allowed employees to return to the office to work together with appropriate health protocols in place. Westwater's continued focus on the health and safety of employees, the safety of operations, and the safety of the communities in which our employees live and work remains paramount. To that end, Westwater has continued to restrict unnecessary travel, and ensured that employees are permitted to take time off due to illness or the illness of those around them without penalty.

## **AVAILABLE INFORMATION**

Our internet website address is [www.westwaterresources.net](http://www.westwaterresources.net). Our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) of 15(d) of the Exchange Act, are available free of charge through our website under the tab “Investor” as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. We also make available on our website copies of materials regarding our corporate governance policies and practices, including our Code of Ethics, Nominating and Governance Committee Charter, Audit Committee Charter and Compensation Committee Charter. You may read and copy any materials we file with the SEC at the SEC’s website at <http://www.sec.gov>. You may also obtain a printed copy of the foregoing materials at no cost by sending a written request to: Westwater Resources, Inc., 6950 S. Potomac Street, Suite 300, Centennial, Colorado 80112, Attention: Information Request, or by calling 303.531.0516. The information found on our internet website is not part of this or any report filed or furnished to the SEC.

### **ITEM 1A. RISK FACTORS**

*Our business activities are subject to significant risks, including those described below. Every investor or potential investor in our securities should carefully consider these risks. If any of the described risks actually occurs, our business, financial position and results of operations could be materially adversely affected. Such risks are not the only ones we face and additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business.*

#### **Risks Related to Our Business**

***There is substantial doubt about our ability to continue as a going concern.***

The accompanying consolidated financial statements have been prepared assuming the Company will continue as a going concern. This assumes continuing operations and the realization of assets and liabilities in the normal course of business.

We have incurred significant losses since ceasing production of uranium in 2009 and expect to continue to incur losses as a result of costs and expenses related to maintaining our properties and general and administrative expenses. As of December 31, 2022, we had a net working capital of approximately \$51.0 million, cash of approximately \$75.2 million and an accumulated deficit of approximately \$353.3 million. As a result of our evaluation of the Company’s liquidity for the next twelve months, we have included a discussion about our ability to continue as a going concern in our consolidated financial statements, and our independent auditor’s report for year ended December 31, 2022 includes an explanatory paragraph that expresses substantial doubt about our ability to continue as a “going concern.” Our capital needs have, in recent years, been funded through sales of our debt and equity securities. In the event that we are unable to raise sufficient additional funds, we may be required to delay, reduce or severely curtail our operations or otherwise impede our on-going business efforts, which could have a material adverse effect on our business, operating results, financial condition, long-term prospects and ability to continue as a viable business.

***Our business could be negatively impacted by inflationary pressures, which may result in increased costs of operations and negatively impact our ability to access capital.***

The U.S. has experienced rising inflation in 2022 and U.S. inflation is currently at a 40-year high. This inflation has resulted in an increase in our costs for labor, services, and materials. Further, our suppliers face inflationary impacts such as the tight labor market and supply chain disruptions, that could increase the costs to construct and commission the Kellyton Graphite Plant, explore and develop the Coosa Graphite Deposit, and conduct our day-to-day operations. The rate and scope of these various inflationary factors may increase our operating costs materially, which may not be readily recoverable, and have an adverse effect on our costs, operating margins, results of operations and financial condition.

Further, sustained inflation has caused and may continue to cause the Federal Reserve Board to raise the target for the federal funds rate, which correspondingly causes an increase in interest rates. Increased interest rates could have a negative effect on the securities markets generally which may, in turn, have a material adverse effect on the Company’s

ability to access capital, particularly debt financing, and the market price of equity securities, including the Company's common stock, which usually decrease as interest rates rise. To the extent that we access debt financing or issue variable interest rate instruments in the future, any increase in interest rates would increase our cost of borrowing and our interest expense.

***We are currently operating in a period of economic uncertainty and capital markets disruption, which has been significantly impacted by geopolitical instability and an ongoing military conflict between Russia and Ukraine. Our business, financial condition and results of operations could be materially adversely affected by any negative impact on the global economy and capital markets resulting from the conflict in Ukraine and geopolitical tensions.***

The ongoing military conflict in Ukraine has caused broad disruption. Although the length, impact and outcome of that military conflict in Ukraine is highly unpredictable, it could lead to significant market and other disruptions, including significant volatility in commodity prices and supply of energy resources, instability in financial markets, higher inflation, supply chain interruptions, political and social instability, changes in consumer or purchaser preferences as well as increases in cyberattacks and espionage. While we expect any direct impacts to our business to be limited, the indirect impacts on the economy and on the mining industry and other industries in general could negatively affect our business and may make it more difficult for us to raise equity or debt financing. In addition, the impact of other current macro-economic factors on our business, which may be exacerbated by the war in Ukraine - including inflation, supply chain constraints and geopolitical events - is likely to have an adverse effect on our business.

***We face a variety of risks related to our planned battery-graphite manufacturing business.***

We plan to develop a battery-graphite manufacturing business that produces low-cost, high-quality, and high-margin graphite products for battery manufacturers. The planned battery-graphite manufacturing business is significantly different from our historic mining operations and carries a number of risks, including, without limitation:

- unanticipated liabilities or contingencies, including those related to intellectual property;
- the need for additional capital and other resources to expand into the battery-graphite manufacturing business;
- competition from better-funded public and private companies, including from producers of synthetic graphite, and competition from foreign companies that are not subject to the same environmental and other regulations as the Company;
- difficulty in hiring personnel or acquiring the intellectual property rights and know-how needed for the proposed battery-graphite manufacturing business; and
- the potential for interruptions in our sources of graphite prior to operation of the Coosa Graphite Deposit due to environmental risks, geopolitical unrest, supply chain disruptions and transportation risks, and regulatory changes.

Entry into a new line of business may also subject us to new laws and regulations with which we are not familiar and may lead to increased litigation and regulatory risk. Further, our battery-graphite manufacturing business model and strategy are still evolving and are continually being reviewed and revised, and we may not be able to successfully implement our business model and strategy. We may not be able to produce graphite with the characteristics needed for battery production, and we may not be able to attract a sufficiently large number of customers. Although we have gained experience over the past several years, neither the Company nor any member of its management team has directly engaged in producing graphite before, and our lack of this specific experience may result in delays or further complications to the new business. If we are unable to successfully implement our new battery-graphite manufacturing business, our revenue and profitability may not grow as we expect, our competitiveness may be materially and adversely affected, and our reputation and business may be harmed.

In developing our planned battery-graphite manufacturing business, we have and will continue to invest significant time and resources. Initial timetables for the development of our battery-graphite manufacturing business may not be achieved. Failure to successfully manage these risks in the development and implementation of our new battery-graphite manufacturing business could have a material adverse effect on our business, results of operations and financial condition.

***The construction and operation of the Kellyton Graphite Plant is subject to delays, cost overruns, or may not produce expected benefits.***

Construction projects similar to our plant construction are subject to broad and strict government supervision and approval procedures, including but not limited to project approvals and filings; construction, land and project planning approvals; environment protection approvals; pollution discharge permits; work safety approvals; and the completion of inspection and acceptance by relevant authorities. As a result, construction and operation of the Kellyton Graphite Plant may be subject to administrative uncertainty, fines or the suspension of work on such projects. Construction delays related to the Kellyton Graphite Plant or failure to operate the Kellyton Graphite Plant in accordance with agreements with the State of Alabama and local municipalities could result in the loss of otherwise available tax credits and incentives.

Delays or cost overruns could also result from inaccuracies in the estimates and findings in the DFS; difficulties in negotiation of construction contracts; challenges with managing contractors and vendors; subcontractor performance; adverse weather conditions and natural disasters; increased costs, shortages, or inconsistent quality of equipment, materials, and labor; judicial or regulatory action; nonperformance under construction or other agreements; engineering or design problems; negative impacts of the COVID-19 pandemic or future pandemic health events; work stoppages; environmental and geological conditions; or challenges with start-up activities and operational performance.

To the extent we are unable to successfully complete construction on time or at all, our ability to develop the Kellyton Graphite Plant could be adversely affected, which in turn could have a material adverse effect on our business, growth prospects, results of operations and financial condition.

***The Company is not producing any products at a commercial scale at this time. As a result, we do not currently have a reliable source of operating cash. If we cannot successfully transition to commercial scale production of graphite and vanadium, partner with another company that has cash resources, find other means of generating and/or access additional sources of private or public capital, we may not be able to remain in business.***

We do not have a committed source of financing for the development of our graphite or vanadium projects. While we have spent approximately \$55.3 million through December 31, 2022, the remaining capital expenditures to construct Phase I of the Kellyton Graphite Plant are currently estimated at approximately \$215.7 million, which amount has increased as a result of the optimization of Phase I of the Kellyton Graphite Plant, and delays in constructing the commercial scale processing facility and other cost overruns may increase that estimate. As of December 31, 2022, we have approximately \$75.2 million in cash, and there can be no assurance that we will be able to obtain financing on commercially reasonable terms, if at all, for the remainder of the amount needed to construct Phase I of the Kellyton Graphite Plant or develop our properties. Our inability to construct the Kellyton Graphite Plant or develop our properties would have a material adverse effect on our future operations.

We have incurred losses and have had no revenue from operations since 2009, and we expect to continue to incur losses until the Kellyton Graphite Plant becomes operational, which is anticipated to occur in 2024 but could be subject to delays. We have no way to generate cash inflows outside of financing activities and we will continue to incur operating losses until we begin graphite and/or vanadium production on a scale sufficient to generate revenues to fund continuing operations, which cannot be assured. Our future production of purified graphite products is dependent on completion of the Kellyton Graphite Plant and successful implementation of graphite purification technology. Our future mining of graphite and vanadium is dependent upon the completion of an evaluation that will assess the amount, location and size of graphite and vanadium concentrations at our Coosa Graphite Deposit. We can provide no assurance that we will successfully produce graphite or vanadium on a commercial scale, that our properties will be placed into production or that we will be able to continue to find, develop, acquire and finance additional mineral resources or reserves. If we fail to reach commercial scale production and cannot find other means of generating revenue other than producing graphite and

vanadium and/or access additional sources of private or public capital, we may not be able to remain in business and holders of our securities may lose their entire investment.

***Volatility in graphite and vanadium prices may result in the Company not receiving an adequate return on invested capital.***

Unless and until the Company produces natural graphite from the Coosa Graphite Deposit, which is not projected to occur until the end of 2028, the Company will be exposed to fluctuations in the price of natural flake graphite, which may increase substantially as the demand for graphite increases. In addition, the Company's graphite and vanadium exploration and development activities may be significantly adversely affected by volatility in the price of graphite or vanadium. The success of our mining operations and ability to achieve positive cash flow is dependent on our ability to develop our properties and then operate them at a profit sufficient to finance further mining activities and for the acquisition and development of additional properties. Any profit will necessarily be dependent upon, and affected by, the long and short-term market prices of graphite and vanadium. Mineral prices fluctuate widely and are affected by numerous factors beyond the Company's control such as global and regional supply and demand, interest rates, exchange rates, inflation or deflation, fluctuation in the value of the United States dollar and foreign currencies, and the political and economic conditions of mineral-producing countries throughout the world. The exact effect of these factors cannot be accurately predicted, but the combination of these factors may result in the Company's graphite and vanadium activities not producing an adequate return on invested capital to be profitable or viable. In addition, a significant, sustained drop in graphite and vanadium prices would cause us to recognize impairment of the carrying value of our graphite and vanadium or other assets, which could have an adverse impact on the Company's financial conditions and results of operations

***Our operations are subject to environmental risks.***

We are required to comply with environmental protection laws, regulations and permitting requirements in the United States, and we anticipate that we will be required to continue to do so in the future in connection with the construction and operations at our Kellyton Graphite Plant and Coosa Graphite Deposit. We have expended significant resources, both financial and managerial, to comply with environmental protection laws, regulations and permitting requirements, and we anticipate that we will be required to continue to do so in the future. The material environmental laws and regulations within the U.S. include the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Federal Land Policy Management Act, National Park System Mining Regulations Act, the State Mined Land Reclamation Acts, and State Department of Environmental Quality regulations, and the rules and regulations of the NEPA, the National Pollution Discharge Elimination System (NPDES) and Section 404 of the Clean Water Act (CWA) as applicable.

We cannot predict what environmental legislation, regulation or policy will be enacted or adopted in the future or how future laws and regulations will be administered or interpreted. The recent trend in environmental legislation and regulation, generally, is toward stricter standards, and this trend is likely to continue in the future. This recent trend includes, without limitation, laws and regulations relating to air and water quality, reclamation, waste handling and disposal, the protection of certain species, the preservation of certain lands, and epidemics and pandemics to the degree they impact us or our activities. These regulations may require the acquisition of permits or other authorizations for certain activities. These laws and regulations may also limit or prohibit activities on certain lands. Compliance with more stringent laws and regulations, as well as potentially more vigorous enforcement policies or stricter interpretation of existing laws, may necessitate significant capital outlays, may materially affect our results of operations and business or may cause material changes or delay to our intended activities.

Our operations may require additional analysis in the future including environmental, cultural and social impact and other related studies. Certain activities require the submission and approval of environmental impact assessments. Environmental assessments of proposed projects carry a heightened degree of responsibility for companies and their directors, officers and employees. We cannot provide assurance that we will be able to obtain or maintain all necessary permits that may be required to continue our operation or exploration of our properties or, if feasible, to commence development, construction or operation of production or mining facilities at such properties on terms which enable operations to be conducted at economically justifiable costs. If we are unable to obtain or maintain permits or water rights for development of our properties or otherwise fail to manage adequately future environmental issues, our operations could be materially and adversely affected.

***Competition from better-capitalized companies affects prices and our ability to acquire both properties and personnel.***

There is global competition for capital, graphite and vanadium customers, and qualified personnel. In the production and marketing of graphite and vanadium, there are a number of producing entities, some of which are government controlled and most of which are significantly larger and better capitalized than we are. Many of these organizations also have substantially greater financial, technical, manufacturing and distribution resources than we have. If we are unable to compete effectively in any of these areas, our ability to operate could be materially and adversely affected.

***Because we have limited capital, inherent manufacturing and mining risks pose a significant threat to us compared with our larger competitors.***

Because we have limited capital, we may be unable to withstand significant losses that can result from risks associated with manufacturing and mining activities, including environmental hazards, industrial accidents, flooding, earthquake, pandemics, interruptions due to weather conditions and other acts of nature that larger competitors could more easily withstand. Such risks could result in damage to or destruction of our infrastructure and production facilities, as well as to adjacent properties, personal injury, environmental damage and processing and production delays, causing monetary losses and possible legal liability.

***We are dependent on experts and subject to workforce factors that could affect operations.***

Our business and mineral exploration and processing programs depend upon our ability to employ the services of geologists, engineers and other experts. In operating our business and in order to continue our operations, we compete with other mineral exploration and processing companies and businesses for the services of professionals. Our ability to maintain and expand our business and continue our development of the Kellyton Graphite Plant and the Coosa Graphite Deposit may be impaired if we are unable to continue to engage those parties currently providing services and expertise to us or identify and engage other qualified personnel to do so in their place.

We must attract, train and retain a workforce to meet future needs for the development of the Kellyton Graphite Plant and the Coosa Graphite Deposit. To retain key employees, we may face increased compensation costs, including potential new incentive stock grants and there can be no assurance that the incentive measures we implement will be successful in helping us retain our key personnel. Increased costs and reduced supply of labor may lead to operating challenges. Failure to hire and adequately train employees and retain key employees may adversely affect the Company's ability to manage and operate its business.

***Our patent and other protective measures may not adequately protect our proprietary intellectual property, and we may be infringing on the rights of others.***

Our intellectual property is directed to our proprietary rights to an improved method for the purification of graphite concentrate. We have filed patent applications in the United States, and we generally enter into confidentiality and invention agreements with our employees and consultants. We can make no assurances that a patent application will result in an issued patent and our failure to secure rights under the patent application may limit our ability to protect the intellectual property rights at the core of our proposed graphite production business. In addition, such patent protection and agreements and various other measures we take to protect our intellectual property from use by others may not be effective for various reasons generally applicable to patents and their granting and enforcement. In addition, the costs associated with enforcing patents, confidentiality and invention agreements or other intellectual property rights may be expensive. Our inability to protect our proprietary intellectual property rights or gain a competitive advantage from such rights could harm our ability to generate revenues and, as a result, our business and operations.

We could also become subject to litigation claiming that our intellectual property or proprietary information infringes the rights of a third party. In that event, we could incur substantial defense costs and, if such litigation is successful, we could be required to pay the claimant damages and royalties for our past and future use of such intellectual property or proprietary information, or we could be prohibited from using it in the future, which could prevent us from pursuing our graphite production business, or we could be required to modify our process and facilities. Our inability to

use our intellectual property and proprietary information on a cost-effective basis in the future could have a material adverse effect on our revenue, cash flow and profitability.

***Pandemics, epidemics or disease outbreaks, including the novel coronavirus (COVID-19 virus), may disrupt our business, supply chains and the business of our business partners, which could materially affect our operations, liquidity and results of operations.***

We face various risks related to health epidemics, pandemics and similar outbreaks, including the global outbreak of coronavirus (“COVID-19”). The continued spread of COVID-19 has led to disruption and volatility in the global capital markets, which increases the cost of capital and adversely impacts our access to capital. If significant portions of our workforce are unable to work effectively, including because of illness, quarantines, government actions, facility closures or other restrictions in connection with the COVID-19 pandemic, our operations will likely be impacted. In addition, our costs may increase as a result of the COVID-19 outbreak. These cost increases may not be fully recoverable or adequately covered by insurance. The COVID-19 pandemic continues to evolve, and the extent to which the pandemic may impact our business, financial condition, liquidity, results of operations and prospects will depend highly on future developments, which are very uncertain and cannot be predicted with confidence.

***The timing and amount of compensation relating to the revocation of the mining and exploration licenses for our Temrezli and Sefaatlı projects is yet to be determined.***

On June 20, 2018, the General Directorate of Mining Affairs, a department of the Turkish Ministry of Energy and Natural Resources, notified the Company that the mining and exploration licenses for its Temrezli and Sefaatlı projects located in Turkey had been revoked and potential compensation would be proffered. In 2018, Westwater reached out on numerous occasions to the Turkish government to resolve this dispute amicably, to reinstate the licenses and to remedy its unlawful actions, but to no avail. As a result, on December 13, 2018 Westwater filed a Request for Arbitration against the Republic of Turkey before the International Centre for the Settlement of Investment Disputes (“ICSID”), pursuant to the Treaty between the United States of America and the Republic of Turkey concerning the Reciprocal Encouragement and Protection of Investments, seeking damages and other relief. On December 21, 2018, ICSID advised that it had formally “registered” the Request for Arbitration. On March 11, 2020, Turkey filed a request to bifurcate the arbitration proceeding, and on March 30, 2020, Westwater filed a response in opposition to Turkey’s request for bifurcation. On April 28, 2020, the arbitral tribunal denied Turkey’s bifurcation request. On May 13, 2020, Turkey filed with the arbitral tribunal a request, which Westwater elected not to oppose, to extend the date on which their Counter-Memorial must be filed (and to change dates for subsequent pleadings as well as document production and witness identification deadlines), which the tribunal approved on June 3, 2020. As a result of these decisions by the tribunal, Turkey filed its Counter-Memorial on September 14, 2020. The hearing on the substantive issues and damages occurred in the third quarter of 2021 and the Company is awaiting a formal ruling on the matter.

While the Company intends to continue to seek full and fair compensation for the licenses through arbitration with ICSID, the timing of such compensation cannot yet be determined. In addition, the Company can provide no assurance about the amount of compensation, if any, and an adverse result could have an adverse impact on the Company’s financial conditions and results of operations.

## **Risks Related to Exploration and Mining Activities**

***Our property is in the exploration stage. There is no assurance that we can establish the existence of any Mineral Reserve on the property in commercially exploitable quantities. Until we can do so, we cannot earn any revenues from the property, and if we do not do so, and are unable to enter into a joint venture or sell the property, we will lose all of the funds that we expend on exploration. If we do not discover any Mineral Reserves in a commercially exploitable quantity, our business could be adversely impacted.***

We have established Mineral Resources at the Coosa Graphite Deposit but have not established any Mineral Reserves according to recognized reserve guidelines, nor can there be any assurance that we will be able to do so. A Mineral Reserve is defined by the SEC in its S-K 1300 as that part of a mineral deposit, which could be economically and legally extracted or produced at the time of the reserve determination. There is no guarantee that a deposit will also be a "reserve" that meets the requirements of S-K 1300. If Mineral Reserves on our property are established in the future, there can be no assurance that the property can be developed into a producing mine to extract those minerals. Both mineral exploration and development involve a high degree of risk.

***Exploration and development of graphite and vanadium properties are risky and subject to great uncertainties.***

The exploration for and development of graphite and vanadium deposits involve significant risks. It is impossible to ensure that the current and future exploration programs on our existing properties will establish reserves. Whether an ore body will be commercially viable depends on a number of factors, including, but not limited to: the particular attributes of the deposit, such as size, grade and proximity to infrastructure; graphite and vanadium prices, which cannot be predicted and which have been highly volatile in the past; mining, processing and transportation costs; perceived levels of political risk and the willingness of lenders and investors to provide project financing; availability of labor, labor costs and possible labor strikes; availability of drilling rigs; and governmental regulations, including, without limitation, regulations relating to prices, taxes, royalties, land tenure, land use, importing and exporting materials, foreign exchange, environmental protection, employment, worker safety, transportation, and reclamation and closure obligations. Most exploration projects do not result in the discovery of commercially mineable deposits of minerals and there can be no assurance that any of our exploration stage properties will be commercially mineable or can be brought into production.

***The extent of the Company's vanadium mineral reserves at the Coosa Graphite Deposit is unknown and may not be in sufficient quantities to make its extraction and processing economically feasible.***

The Company discovered vanadium concentrations at the Coosa Graphite Deposit and is executing an exploration plan to further investigate the size and extent of those concentrations. While there can be no assurance that the extent of those concentrations will end up being economically feasible, even if the Company finds vanadium in sufficient quantities to warrant recovery, it ultimately may not be recoverable. Finally, even if any vanadium is recoverable, the Company does not know whether recovery can be done at a profit. Our vanadium activities are highly prospective, face a high risk of failure and may not result in any benefit to the Company.

Potential investors should be aware of the difficulties normally encountered by new mineral exploration ventures and the high rate of failure of such ventures. The likelihood of success of the Company's vanadium exploration activities must be considered in light of the potential problems, expenses, difficulties, complications and delays encountered in connection with the exploration of new mineral properties. These potential problems include, but are not limited to, unanticipated problems relating to exploration and additional costs and expenses that may exceed current estimates. The expenditures to be made by the Company in the exploration of its new vanadium claims may not result in the discovery of new vanadium deposits. Problems such as unusual or unexpected formations and other conditions are encountered in new mineral exploration and often result in unsuccessful exploration efforts. If the results of the Company's new exploration ventures do not reveal viable commercial mineralization, it may decide to abandon its claims. If this happens, the Company will not benefit from any of the expenditures it will incur in pursuing the claims.



***The Company does not have and may not be able to obtain surface or access rights to all or a portion of the Coosa Graphite Deposit.***

Although the Company has rights to the minerals in the ground at the Coosa Graphite Deposit, the Company does not have rights to, or ownership of, the ground surface of the areas covered by its mineral rights. While applicable mining laws usually provide for rights of access to the surface for the purpose of carrying on mining activities, the enforcement of such rights through the courts can be costly and time consuming. It may be necessary for the Company to negotiate surface access or to purchase the surface rights if long-term access is required. There can be no guarantee that, despite having the right at law to access the surface and carry-on mining activities, the Company will be able to negotiate satisfactory agreements with any such existing landowners/occupiers for such access or purchase such surface rights, and therefore it may be unable to carry out planned exploration or mining activities at the Coosa Graphite Deposit. In addition, in circumstances where such access is denied, or no agreement can be reached, the Company may need to rely on the assistance of local officials or the courts in such jurisdiction, the outcomes of which cannot be predicted with any certainty. The inability of the Company to secure surface access or purchase required surface rights could materially and adversely affect the timing, cost or overall ability of the Company to develop any mineral deposits it may locate at the Coosa Graphite Deposit.

***Because mineral exploration and development activities are inherently risky, we may be exposed to environmental liabilities and other dangers. If we are unable to maintain adequate insurance, or liabilities exceed the limits of our insurance policies, we may be unable to continue operations.***

The business of mineral exploration and extraction involves a high degree of risk. Few properties that are explored are ultimately developed into production. Unusual or unexpected formations, formation pressures, fires, power outages, labor disruptions, flooding, explosions, cave-ins, landslides and the inability to obtain suitable or adequate machinery, equipment or labor are some of the risks involved in extraction operations and the conduct of exploration programs. Previous mining operations may have caused environmental damage at certain of our properties. It may be difficult or impossible to assess the extent to which such damage was caused by us or by the activities of previous operators, in which case, any indemnities and exemptions from liability may be ineffective.

Although we carry property and liability insurance with respect to our mineral development and exploration operations, we may become subject to liability for damage to life and property, environmental damage, cave-ins or hazards against which we cannot insure or against which we may elect not to insure because of cost or other business reasons. In addition, the insurance industry is undergoing change and premiums are increasing. Material uninsured environmental or similar liabilities could cause us to be forced to cease operations.

***Title to the Coosa Graphite Deposit may be subject to defects in title or other claims, which could affect our property rights and claims.***

There are risks that title to the Coosa Graphite Deposit may be challenged or impugned. There may be valid challenges to the title of the Coosa Graphite Deposit which, if successful, could impair development or operations. This is particularly the case because we hold our interest solely through leases, as such interest is substantially based on contract as opposed to a direct interest in the property.

The lease agreements pursuant to which the Company has interests in the Coosa Graphite Deposit provide that the Company must make a series of cash payments over certain time periods. Failure by the Company to make such payments in a timely fashion may result in the Company losing its interest in the Coosa Graphite Deposit. There can be no assurance that the Company will have, or be able to obtain, the necessary financial resources to be able to maintain the lease agreements in good standing, or to be able to comply with all of its obligations thereunder, which could result in the Company forfeiting its interest in the Coosa Graphite Deposit.

## **Risks Related to Ownership of Our Common Stock**

***Our stock price has been and may continue to be volatile and may fluctuate significantly, which may adversely impact investor confidence and results and increase the likelihood of securities class action litigation.***

Our common stock price has experienced substantial volatility in the past and may remain volatile in the future. During 2022, the sale price of our common stock ranged from a high of \$2.41 per share to a low of \$0.78 per share. Volatility in our stock price can be driven by many factors including, but not limited to, general market conditions, market conditions in the energy materials industry, announcements that we may make regarding our business plans or strategy, including announcements concerning our anticipated battery-graphite business, the substantial increase in the sale and issuance of shares of our common stock to finance our operations and the accuracy of expectations and predictions of financial analysts and the market as they pertain to our future business prospects. In addition, the price of our common stock may increase or decrease substantially for reasons unrelated to our operating performance or prospects. If our common stock continues to experience substantial price volatility, any shares investors purchase may rapidly lose some or substantially all of their value.

Shareholders of a public company sometimes bring securities class action suits against the company following periods of instability in the market price of that company's securities. If we were involved in a class action suit, it could divert a significant amount of our management's attention and other resources from our business and operations, which could harm our results of operations and require us to incur significant expenses to defend the suit. Any such class action suit, whether or not successful, could harm our reputation and restrict our ability to raise capital in the future. In addition, if a claim is successfully made against us, we may be required to pay damages, which could have a material adverse effect on our results of operations and financial condition.

Furthermore, our ability to raise funds through the issuance of equity or otherwise use our common stock as consideration is impacted by the price of our common stock. A low stock price may adversely impact our ability to fund our operating and growth plans, including Phase I of the Kellyton Graphite Plant, which would harm our business and prospects.

***The Company has no history of paying dividends on its common stock, and we do not anticipate paying dividends in the foreseeable future.***

The Company has not previously paid dividends on its common stock. We currently anticipate that we will retain all of our available cash, if any, for use as working capital and for other general corporate purposes. Any payment of future dividends will be at the discretion of our Board of Directors and will depend upon, among other things, our earnings, financial condition, capital requirements, level of indebtedness, statutory and contractual restrictions applicable to the payment of dividends and other considerations that our Board of Directors deems relevant. Investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize a return on their investment.

***Terms of subsequent financings may adversely impact holders of our securities.***

In order to finance our future production plans and working capital needs, we may have to raise funds through the issuance of equity or debt securities. Depending on the type and the terms of any financing we pursue, holders of our securities' rights and the value of their investment in our common stock could be reduced. A financing could involve one or more types of securities including common stock, convertible debt or warrants to acquire common stock. These securities could be issued at or below the then prevailing market price for our common stock. We currently have no authorized preferred stock. In addition, if we issue secured debt securities, the holders of the debt would have a claim to our assets that would be senior to the rights of holders of our other securities until the debt is paid. Interest on these debt securities would increase financing and interest costs and could negatively impact our operating results. If the issuance of new securities results in diminished rights to holders of our common stock, the market price of our common stock could be negatively impacted.

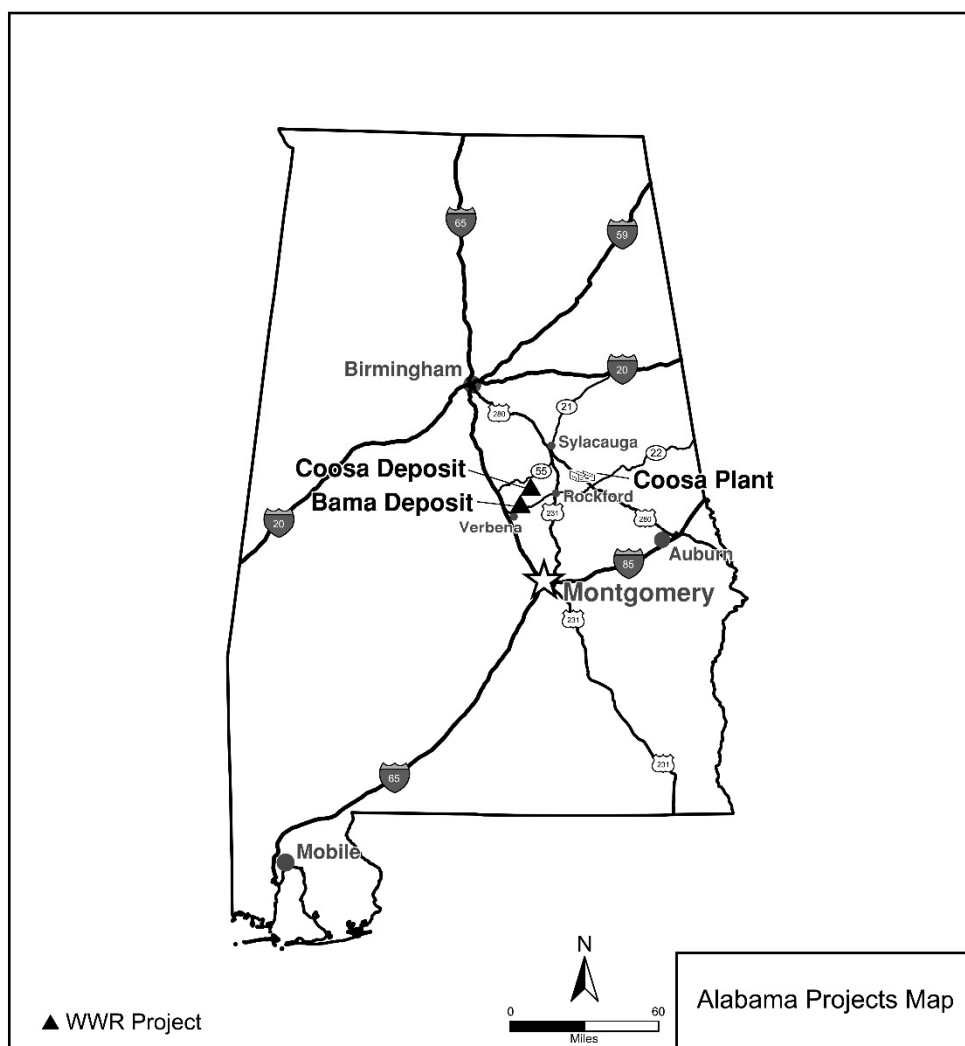
*Shareholders would be diluted if we use common stock to raise capital, and the perception that such sales may occur, could cause the price of our common stock to fall.*

We plan to seek additional capital to carry out our business plan. This financing could involve one or more types of securities including common stock, convertible debt or warrants to acquire common stock. These securities could be issued at or below the then prevailing market price for our common stock. Any issuance of additional shares of our common stock could be dilutive to existing holders of our securities and could adversely affect the market price of our common stock.

#### ITEM 1B. UNRESOLVED STAFF COMMENTS

None

#### ITEM 2. PROPERTIES



## **KELLYTON GRAPHITE PLANT**

The Kellyton Graphite Plant is located near Kellyton, Alabama and five miles northwest of Alexander City, Alabama. AGP executed a land lease with the Lake Martin Area Industrial Development Authority, providing AGP rights to approximately 70 acres to construct and operate the Kellyton Graphite Plant. Westwater plans to develop the Kellyton Graphite Plant in two phases (Phases I and II).

Construction activities for Phase I of the Kellyton Graphite Plant began in the fourth quarter of 2021 and will continue in 2023. The Company expects to begin testing and commissioning Phase I in late 2023, and first production to occur in the first half of 2024, subject to securing the additional funding to complete construction. Additionally, we expect to spend the additional capital necessary related to the Phase I optimization in 2024 and are targeting completion of this optimization and increasing the planned throughput and production in the second half of 2024. For more developments of construction items see *Item 1, Description of Business*.

A plan and design for Phase II is in place at a pre-feasibility level (“PFS”). The future estimated costs to develop and expected production for each phase of the Kellyton Graphite Plant development is based on Westwater’s completed DFS, as optimized for Phase I, and the PFS for Phase II, also as optimized. The estimated economics for both Phase I and Phase II, assume that graphite concentrate will be purchased from a third-party rather than assuming any potential production from the Coosa Graphite Deposit.

### ***Production Pilot Operations***

The Company completed its pilot program in 2021 and produced approximately 13 metric tonnes of battery-grade graphite products. During the pilot scale program, graphite concentrates were purified and converted into advanced battery-grade graphite products. The majority of the pilot program was performed at contracted laboratories. The purified material was manufactured into our three products, purified micronized graphite, coated spherical purified graphite and delaminated expanded graphite. The results of the pilot program were used to inform the results of the Company’s DFS, and to provide samples to potential customers. The Company continues to operate its pilot program to produce additional product samples for potential customers as needed.

### ***Project Development Plan***

Phase I: After testing and commissioning is completed, the Kellyton Graphite Plant is now expected to have production capacity of approximately 7,500 mt of ULTRA-CSPG™ and 8,500 mt of SPG fines, annually. Graphite concentrate feedstock is anticipated to be supplied from outside sources until at least 2028.

Phase II: Upon completion of Phase II, the Company now expects to have annual production capacity of approximately 40,500 mt of ULTRA-CSPG™ and 46,000 mt of SPG fines.

## **COOSA GRAPHITE DEPOSIT**

Through its acquisition of Alabama Graphite, Westwater gained lease rights to a graphite exploration project at the Coosa Graphite Deposit. The deposit is situated in east-central Alabama, approximately 50 miles southeast of the city of Birmingham and approximately 30 miles west of Kellyton, Alabama. The Coosa Graphite Deposit is located near Rockford Alabama at 32 ° 54’ 30” North and 86 ° 24’ 00” West and is currently in the exploration stage.

*General.* The Coosa Graphite Deposit is situated in east-central Alabama, near the western end of Coosa County. The Coosa Graphite Deposit is located near the southwestern-most extent of the Alabama Graphite Belt.

*The Property.* The Coosa Graphite Deposit is comprised of a lease of privately-owned mineral rights from a single landowner covering an overall area of approximately 41,965 acres (approximately 65.6 square miles). The various property parcels that comprise the lease are contiguous with each other, except for a few small and isolated parcels that are situated in the far south part of the project area. The lease has a series of five-year terms (commencing August 1, 2012) that are not to exceed 70 years in total. Under the terms of the lease Alabama Graphite is required to make annual payments of

\$10,000 for the original lease in order to maintain its property rights. Alabama Graphite is obligated to pay the owner of the mineral estate a net smelter return royalty of 2.00% for any production and sale of graphite, vanadium and other minerals derived from the leased lands. There is a further obligation to pay a 0.50% net smelter return royalty, not to exceed \$150,000, and make payments of \$100,000 at the time of completion of a “bankable feasibility study” and an additional \$150,000 upon completion of “full permitting” of the leased property. These payments are payable to an unaffiliated third-party. The Company does not hold any surface rights in the project area.

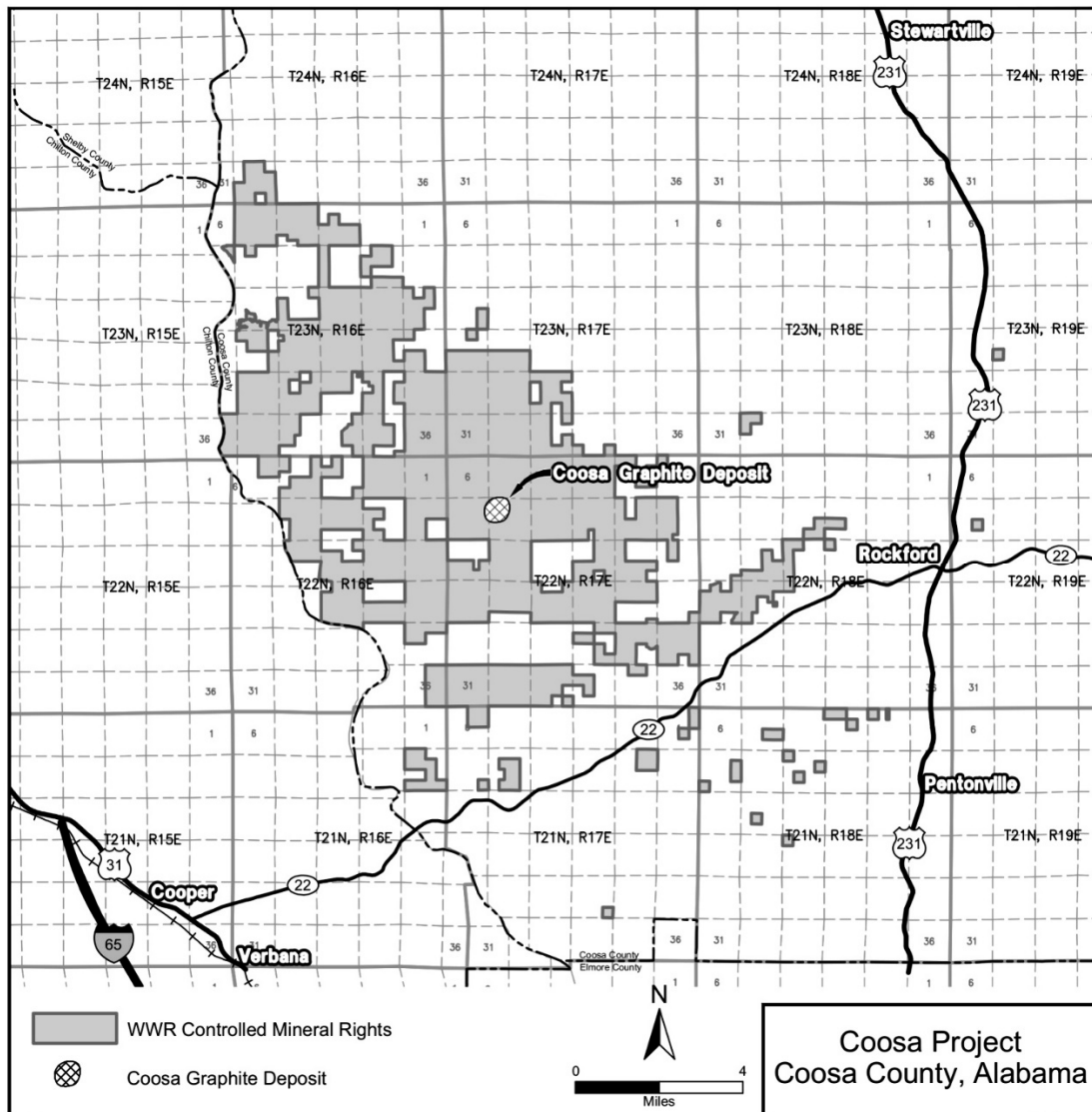
*Accessibility.* Access to the Coosa Graphite Deposit is good. The general area of the Coosa Graphite Deposit is accessible from local and regional population centers via a network of paved federal, state and county two-lane highways. Various parts of the project lands are traversed by numerous partially maintained dirt and gravel logging roads.

*History.* The Coosa Graphite Deposit is situated near the southwestern end of the Alabama Graphite Belt, which is a northeast-trending group of graphite deposits and occurrences that are situated in the central and eastern parts of the state. The initial attempt to produce graphite mineralization in the Alabama Graphite Belt commenced in 1888, with efforts focusing upon prospects located to the northeast of the region of the Coosa Graphite Deposit. The first commercial production of graphite from deposits in the Alabama Graphite Belt was in 1899 and limited activities continued at least into the 1940s. Within the lands that comprise the Coosa Graphite Deposit, graphite production was carried out at the Fixico mine, which operated intermittently between 1902 and 1908. Other graphite prospects in the project area were evaluated but no efforts were made to mine any other prospects in the project area. Alabama Graphite acquired property rights that comprise the Coosa Graphite Deposit and carried out trenching and drilling programs and completed an aerial geophysical survey of a portion of the project area between 2012 and 2015.

*Project Geology.* The Coosa Graphite Deposit is located at the southern-most end of the Appalachian mountain range in east-central Alabama. Within the Appalachian Mountains a group of Precambrian to Paleozoic age metamorphic rocks host scattered graphite deposits, in an area known as the Alabama Graphite Belt. At the Coosa Graphite Deposit, graphite mineralization, sometimes associated with vanadium mineralization, is hosted within the Higgins Ferry Group, which is comprised of coarse to fine-grained biotite-feldspar-quartz gneiss, various quartz-muscovite and quartz-muscovite-graphite schist, quartzite and altered mafic rocks. The rocks of the Higgins Ferry Group are thought to be Precambrian to Paleozoic in age. In the project area, graphite (and vanadium) mineralization is hosted in a series of quartz-muscovite-biotite-graphite and quartz-graphite schists that are generally medium to coarse grained, and are moderately foliated and somewhat contorted. The graphitic schist units are occasionally cut by pegmatites, which are unmineralized with respect to graphite and vanadium. Graphite grades in the quartz-muscovite-biotite-graphite schist are generally one percent graphite or less, while graphite grades in the quartz-graphite schist commonly exceed one percent. The graphitic schists are moderately to strongly weathered to depths that may extend 10s of feet to occasionally more than 100 feet, and can generally be considered to be surface minable.

*Project Activities.* Prior to its acquisition by Westwater, Alabama Graphite carried out several exploration programs to identify and partially define the potential extent and magnitude of graphite mineralization at the Coosa Graphite Deposit, including core and sonic drilling, trenching and sampling, and an airborne geophysical survey. As a result of this exploration, a near-surface graphite deposit was partially defined in the central portion of the project area.

*Permitting Status.* The Company holds an exploration license from the State of Alabama for the Coosa Graphite Deposit, and is currently reviewing and applying for local, State, and federal permits for future development.



### Mineral Resources

The TRS was prepared as an Initial Assessment in accordance with S-K 1300 and was filed with the SEC on Form 8-K on December 6, 2022. The TRS was prepared on behalf of the Company by SLR, which qualifies as a Qualified Person (QP) as defined under Item 1302 of Regulation S-K.

The mineral resource estimate for the Coosa Graphite Deposit, based on 205 drill holes totaling 39,434 ft., was completed by SLR with an effective date of November 30, 2022. Based on a 1.98% graphitic carbon (Cg) cut-off grade indicated mineral resources total 26.0 million short tons (Mst) at an average grade of 2.89% Cg for a total of 755,000 short tons (st) Cg. Inferred mineral resources are estimated as 97.0 Mst at an average grade of 3.08% Cg for a total of 3.0 Mst Cg.

The TRS was prepared in accordance with the regulations set forth in S-K 1300 with the objective of disclosing the mineral resources at the Coosa Graphite Deposit. Based on the density of drilling, continuity of geology and mineralization, testing, and data verification, the mineral resource estimates meet the criteria for indicated or inferred mineral resources as summarized in the TRS.

Estimated mineral resources are summarized in the following table for indicated and inferred mineral resources, respectively, at a 1.98% Cg. Mineral resources were estimated separately for each mineralized horizon. Mineral resources are not mineral reserves and do not have demonstrated economic viability. However, considerations of reasonable prospects for economic extraction were applied to the mineral resource calculations within the TRS.

Mineral Resources as of December 31, 2022 <sup>(1)(2)(3)(4)(5)(6)(7)(8)</sup>						
Classification	Redox Boundary	Tonnage (Mst)	Grade Cg (%)	Contained Cg (Mlb)	Contained Cg (000 st)	Recovery (%)
Indicated	Oxide	9	2.96	555	278	
	Transition	2	2.81	88	44	
	Reduced	15	2.85	866	433	
<b>Total Indicated</b>		<b>26</b>	<b>2.89</b>	<b>1,509</b>	<b>755</b>	<b>87.4</b>
Inferred	Oxide	15	3.07	951	475	
	Transition	4	3.13	254	127	
	Reduced	78	3.08	4,792	2,396	
<b>Total Inferred</b>		<b>97</b>	<b>3.08</b>	<b>5,997</b>	<b>2,998</b>	<b>87.4</b>

- (1) The S-K 1300 definitions were followed for mineral resources
- (2) Mineral resources are constrained within a Whittle pit shell using a cut-off grade of 1.98% Cg.
- (3) Mineral resources are estimated using a long-term graphite price of US\$1,100/st.
- (4) Bulk density ranges from 1.68 t/m<sup>3</sup> to 3.03 t/m<sup>3</sup> (0.05 st/ft<sup>3</sup> to 0.09 st/ft<sup>3</sup>).
- (5) Mining dilution equals 5.0%.
- (6) Mineral resources are not mineral reserves and do not have demonstrated economic viability.
- (7) Numbers may not sum due to rounding.
- (8) Mineral Resources are 100% attributable to Westwater.

Summary capital and operating cost estimates are not included with the TRS because the Company is reporting the results of an Initial Assessment without economic analysis in accordance with S-K 1300. The technical information has been reviewed by SLR, a QP as defined under Item 1302 of Regulation S-K.

#### *Internal Control*

The Company's internal controls are designed to provide reasonable assurance that information and processes utilized assessing its indicated and inferred mineral resources are reasonable and reliable estimates aligned with industry best practices and reporting regulations. Quality assurance (QA) consists of evidence to demonstrate that the assay data has precision and accuracy within generally accepted limits for the sampling and analytical method(s) used in order to have confidence in a resource estimate. Quality control (QC) consists of procedures used to ensure that an adequate level of quality is maintained in the process of collecting, preparing, and assaying the exploration drilling samples. In general, QA/QC programs are designed to prevent or detect contamination and allow assaying (analytical), precision (repeatability), and accuracy to be quantified. In addition, a QA/QC program can disclose the overall sampling-assaying variability of the sampling method itself. Our quality assurance and control protocols over sampling and assaying of drill hole samples include insertion of certified reference materials, blanks and duplicates, as well as selective sample validation at secondary laboratories. As indicated within the TRS, the QP has determined that the Company's QA/QC programs meet current industry standard practice and the assay results within the database are suitable for use in a Mineral Resource estimate.

Management also assesses risks inherent in mineral resource estimates, such as the accuracy of geophysical data that is used to support mine planning, identify hazards and inform operations of the presence of mineable deposits. For further information on risks regarding mining and exploration activity see *Item 1A, Risk Factors* above.

## **INFRASTRUCTURE**

The Company's carrying value of property, plant and equipment at December 31, 2022 is as follows:

(thousands of dollars)	Net Property, Plant and Equipment at December 31, 2022		
	Alabama	Corporate	Total
Mineral rights and properties	\$ 8,972	\$ —	\$ 8,972
Other property, plant and equipment	5,745	24	5,769
Construction in progress	75,337	—	75,337
Total	<u>\$ 90,054</u>	<u>\$ 24</u>	<u>\$ 90,078</u>

## **INSURANCE**

Our properties are covered by various types of insurance including property and casualty, builder's risk, liability and umbrella coverage. We have not experienced any material uninsured or under insured losses related to our properties in the past and believe that sufficient insurance coverage is in place.

## **ITEM 3. LEGAL PROCEEDINGS**

### **DISPUTE WITH FABRICE TAYLOR**

On June 29, 2017, Alabama Graphite, two of its former officers and one former director were named as defendants in a lawsuit filed in the Superior Court of Justice in Ontario, Canada and styled *Fabrice Taylor v. Alabama Graphite Corp., et. al.*, CV-17-578049. The plaintiff in the lawsuit is the publisher of an investment newsletter and the complaint alleges that the defendants made certain postings on an internet website that were allegedly defamatory of the plaintiff and made certain oral statements to third parties that were allegedly slanderous of the plaintiff, and as a result the complaint seeks damages in the amount of CAD\$3.0 million, unspecified punitive damages and permanent injunctive relief. On August 9, 2017, as amended on August 29, 2017, the defendants responded to the complaint, denied the allegations contained in the complaint, filed counterclaims alleging that plaintiff made certain statements on the internet that were defamatory of the defendants, and set forth general, specific, aggravated and punitive damages in the total amount of CAD \$7.0 million as well as permanent injunctive relief. The lawsuit has not been prosecuted by the plaintiff and no schedule yet exists for its resolution or a trial on the merits.

### **ARBITRATION AGAINST TURKEY**

On December 13, 2018, Westwater filed a Request for Arbitration against the Republic of Turkey before the International Centre for the Settlement of Investment Disputes ("ICSID"), pursuant to the Treaty between the United States of America and the Republic of Turkey concerning the Reciprocal Encouragement and Protection of Investments (the "Treaty"), seeking damages and other relief. The Request for Arbitration was filed as a result of the Republic of Turkey's unlawful actions against the Company's licenses for the Temrezli and Sefaatli uranium projects owned by Westwater's Turkish subsidiary Adur Madencilik Limited Sirketi ("Adur"). Specifically, in June 2018, the Turkish government cancelled all of Adur's exploration and operating licenses with retroactive effect, rendering Westwater's investment in Adur effectively worthless. While the Turkish authorities had variously issued, renewed and overseen these licenses for more than a decade, in June 2018 they asserted that those licenses were issued by mistake and that the Turkish government has a governmental monopoly over all uranium mining activities in Turkey, in violation of Westwater's rights under both Turkish and international law. In 2018, Westwater reached out on numerous occasions to the Turkish government to resolve this dispute amicably, to reinstate the licenses and to remedy Turkey's unlawful actions, but to no avail.

As a result, on December 13, 2018, Westwater filed before ICSID its arbitration request against the Republic of Turkey. On December 21, 2018, ICSID registered Westwater's Request for Arbitration. On May 1, 2019, the three-member ICSID Panel for the arbitration was established – one of the panel members was selected by Westwater, another was selected by Turkey, and the third panel member (serving as the Chair) was selected by the two party-appointed



arbitrators. On September 9, 2019, the ICSID Panel issued Procedural Order #1, which placed the locale for the proceeding in Washington, DC, and set numerous dates for both parties to make various filings.

On January 27, 2020, Westwater filed its Memorial, which is a document that sets out Westwater's case. On March 11, 2020, Turkey filed a request to bifurcate the arbitration proceeding, and on March 30, 2020, Westwater filed a response in opposition to Turkey's request for bifurcation. In Procedural Order #2 issued on April 28, 2020, the arbitral tribunal denied Turkey's bifurcation request. On May 13, 2020, Turkey filed with the arbitral tribunal a request which Westwater elected not to oppose, to extend the date on which their Counter-Memorial must be filed (and to change dates for subsequent pleadings as well as document production and witness identification deadlines), which the arbitral tribunal approved on June 3, 2020. As a result of these decisions by the tribunal, Turkey filed its Counter-Memorial on September 14, 2020. Westwater filed its reply to the Counter-Memorial on March 17, 2021. The hearing on the substantive issues was conducted during the week of September 13-17, 2021.

On March 3, 2023, the arbitral tribunal issued its final award in the proceeding. The tribunal agreed with Westwater that Westwater's investment in Turkey was protected by the Treaty, and that Turkey's cancellation of Adur's licenses amounted to an expropriation of Westwater's investment in violation of Turkey's obligations under the Treaty. The tribunal disagreed with Westwater's projections of what its investment was worth and how much the investment would have returned if Turkey had not cancelled the licenses. The tribunal's award requires Turkey to pay Westwater a total of approximately \$1.3 million in damages, to reimburse Westwater for its fees, expenses and costs of the arbitration amounting to approximately \$3.7 million, and to pay interest in an amount yet to be determined.

## **OTHER**

The Company is subject to periodic inspection by certain regulatory agencies for the purpose of determining compliance by the Company with the conditions of its permits and licenses. In the ordinary course of business, minor violations may occur; however, these are not expected to result in material expenditures or have any other material adverse effect on the Company.

## **ITEM 4. MINE SAFETY DISCLOSURES**

Not Applicable

## **PART II**

## **ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

### **STOCK INFORMATION**

Our common stock is traded on the NYSE American Capital Market under the symbol "WWR." As of February 28, 2023, there were 76 holders of record of our common stock.

We have never paid any cash or other dividends on our common stock, and we do not anticipate paying dividends for the foreseeable future. We expect to retain our earnings, if any, for the growth and development of our business. Any future determination to declare dividends will be made at the discretion of our Board of Directors and will depend on our financial condition, results of operations, capital requirements, general business conditions and other factors that our Board of Directors may consider relevant.

## **ITEM 6. [RESERVED]**

## **ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion and analysis should be read in conjunction with our consolidated financial statements as of and for the two years ended December 31, 2022 and 2021, and the related notes thereto appearing elsewhere in this Annual Report on Form 10-K, which have been prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP"). This discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. Actual results may differ materially from those anticipated in these forward-looking statements as a result of many factors, including, but not limited to, those set forth under the section heading "*Item 1A. Risk Factors*" above and elsewhere in this Annual Report on Form 10-K. See "Cautionary Note Regarding Forward-Looking Statements" above.

### **INTRODUCTION**

Westwater Resources, Inc., originally incorporated in 1977, is an energy technology company focused on developing battery-grade natural graphite materials since its acquisition of Alabama Graphite in 2018. Alabama Graphite holds mineral rights to explore and potentially mine the Coosa Graphite Deposit. AGP, a wholly owned subsidiary of Westwater Resources, continued construction activities related to Phase I of the Kellyton Graphite Plant and in April of 2022 Alabama Graphite completed the initial drilling stage of its exploration program to further investigate the size and extent of both graphite and vanadium mineral concentrations at the Coosa Graphite Deposit.

### **SUMMARY OF RECENT DEVELOPMENTS**

#### ***Construction and Financing Progress on Phase I of the Kellyton Graphite Plant***

Construction activities in 2022 consisted of selecting a general contractor, completing earthwork and site grading, and continuing engineering and design work. In 2022, the Company also installed underground utilities, completed building foundations, and began erecting three of the five manufacturing buildings of the Kellyton Graphite Plant. Construction activity during the year also included receipt of certain long-lead equipment items.

In response to increasing customer demand and market conditions, the Company has completed an optimization of the original DFS to increase the expected production for Phase I of the Kellyton Graphite Plant. As a result of this optimization, the Company now expects production capacity for Phase I of the Kellyton Graphite Plant of 16,000 mt per year, and expected CSPG production of 7,500 mt per year. The Company now estimates the total costs for Phase I construction to be approximately \$271 million compared to the original estimate of \$202 million. Further, the Company now expects to begin testing and commissioning of Phase I in late 2023, and first production to occur in the first half of 2024, subject to securing the additional funding to complete construction. Additionally, we expect to complete the Phase I optimization in the second half of 2024 to increase the expected production capacity of Phase I of the Kellyton Graphite Plant. As of December 31, 2022, and inclusive of liabilities at December 31, 2022, the Company has incurred approximately \$76.4 million of the cost to construct Phase I of the Kellyton Graphite Plant. On March 6, 2023, the Company executed a non-binding, non-exclusive indicative term sheet with an intermediate investment bank in New York for \$150 million of private debt financing that should be sufficient for the completion of Phase I construction. The transaction is anticipated to close in the second quarter of 2023 subject to completion of due diligence and the negotiation of final terms. However, no assurance can be given regarding the assurance of closing or the amount of the additional financing that will be available, or whether those amounts will be sufficient to meet the Company's needs. For additional information regarding the Kellyton Graphite Plant see *Item 2, Properties*.

#### ***Engagement with Potential Customers***

In 2022, we continued to engage with potential customers. The Company is working with potential customers across a number of markets including automotive companies and lithium-ion battery manufacturers. We continue to operate our pilot program to provide new or additional samples at the request of potential customers. To date, the Company has executed Non-Disclosure Agreements with potential customers and has executed five letters of intent across multiple product lines, which are subject to customary conditions and quality and packaging specifications to be included in future

definitive agreements. The Company has also entered into an agreement with a Tier 1 battery manufacturer for electric vehicles. Under the agreement, the parties will work together to ensure that the ULTRA-CSPG™ that is expected to be produced at the Kellyton Graphite Processing Plant can be used as a high-performance anode material for the customer's batteries. Subject to those efforts, the parties expect to negotiate another agreement that will allow for the sale of potentially all graphite anode material from the Kellyton Graphite Processing Plant for those batteries.

### ***Coosa Graphite Deposit Technical Report Summary***

The mineral resource estimate for the Coosa Graphite Deposit, based on 205 drill holes totaling 39,434 ft., was completed by SLR on November 30, 2022 as an Initial Assessment in accordance with S-K 1300. For further information regarding this Technical Report Summary and the Coosa Graphite Deposit, refer to *Item 2, Properties*.

## **RESULTS OF OPERATIONS**

### ***Summary***

Our net loss from continuing operations for the year ended December 31, 2022 was \$11.1 million, or \$0.25 per share, as compared with a net loss from continuing operations of \$16.1 million, or \$0.49 per share for the same period in 2021. The \$5.0 million decrease in our net loss from continuing operations was due primarily to lower product development, arbitration costs, exploration expenses, and higher interest income; offset partially by increases in general and administrative expenses and a realized gain on equity securities that were sold in the fourth quarter of 2021.

### ***Product Development Expenses***

Product development expenses for the year ended December 31, 2022 were \$1.1 million, a decrease of \$4.8 million compared to the prior year. Product development costs for the year ended December 31, 2022 primarily relate to continued product development, product optimization costs, and continued sample production of battery-grade natural graphite products for evaluation by potential customers. Product development costs for the year ended December 31, 2021 were primarily comprised of expenses for our definitive feasibility study related to Phase I of the Kellyton Graphite Plant and our graphite processing pilot program that were both completed in 2021.

### ***Exploration Expenses***

Exploration expenses for the year ended December 31, 2022, were \$0.8 million, a decrease of \$0.3 million compared to the prior year. The decrease in exploration expenses was the result to the Company completing its initial drilling program at the Coosa Graphite Deposit in April 2022.

### ***General and Administrative Expenses***

General and administrative expenses for the year ended December 31, 2022, were \$9.9 million, an increase of approximately \$1.0 million as compared with 2021. The increase is due primarily to increased personnel costs of approximately \$0.8 million, as the Company continues to build its team and higher costs related to the Company's sales and marketing efforts of \$0.2 million.

### ***Arbitration Costs***

During the year ended December 31, 2022, the Company incurred legal and expert consulting costs of \$0.1 million. This represents a decrease of \$2.0 million compared to the prior year due to lower legal fees for arbitration against the Republic of Turkey. During the year ended 2021, the Company incurred legal fees for the hearing on substantive issues, which was conducted during the week of September 13-17, 2021. For further reference, see discussion at *Part I, Item 3* of this Annual Report on Form 10-K.

### ***Mineral Property Expenses***

Mineral property expenses were less than \$0.1 million for the year ended December 31, 2022, a decrease of approximately \$0.1 million compared to the prior year. The decrease in mineral property expenses was due to lower payments to land and surface owners for less activity related to our initial drilling program at the Coosa Deposit which was completed in April 2022.

### ***Sale of Equity Securities***

The Company realized a \$2.1 million gain on the total sale of enCore common shares during the year ended December 31, 2021. The Company originally received these common shares as consideration for the sale of its uranium business to enCore in the fourth quarter of 2020. As of December 31, 2022 and 2021, the Company did not hold any equity investments in unaffiliated entities.

### ***Other Income***

Other income for the year ended December 31, 2022 was \$1.0 million, an increase of approximately \$1.0 million compared to prior year. The increase for the year 2022 compared to prior year is due primarily to interest income of \$1.1 million on our investment account; offset partially by foreign exchange loss adjustment of \$0.1 million for our Euro Denominated bank account. A change in the Euro to USD exchange rate of \$0.01 results in a foreign exchange adjustment of less than \$0.1 million.

## **FINANCIAL POSITION**

### ***Operating Activities***

Net cash used in operating activities was \$13.2 million for the year ended December 31, 2022, as compared with \$16.9 million for the prior year. The \$3.7 million decrease in cash used in operating activities was due primarily to decreased graphite product development, arbitration and exploration costs.

### ***Investing Activities***

Net cash used in investing activities was \$52.8 million for the year ended December 31, 2022, as compared with \$2.1 million of cash used in investing activities for the year ended December 31, 2021. The increase was primarily the result of increased capital expenditures related to Phase I of the Kellyton Graphite Plant totaling \$52.8 million. The \$2.1 million of cash used in investing activities for the year ended December 31, 2021, was primarily due to capital expenditures of \$3.4 million and cash deposits on long-lead equipment items of \$2.7 million, both of which primarily related to the construction of Phase I of Kellyton Graphite Plant; offset partially by cash received of \$3.6 million, net of fees, related to the sale of enCore common shares in the fourth quarter of 2021.

### ***Financing Activities***

Net cash provided by financing activities was \$25.9 million for the year ended December 31, 2022 as compared with \$84.0 million in 2021. The cash inflow for the year ending December 31, 2022 was from the sales of approximately 13.0 million shares of common stock through the Company's ATM Offering Agreement. The cash inflow for the year ended December 31, 2021 was from the sales of 10.0 million shares of common stock through the Company's ATM Offering Agreement totaling \$49.5 million in net cash proceeds, and 6.1 million common shares sold pursuant to the 2020 Lincoln Park PA totaling \$34.6 million in net cash proceeds. For the years ended December 31, 2022 and 2021, the proceeds received from sales of the Company's common stock, were primarily used to advance the Company's graphite business plan, including the construction of Phase I of the Kellyton Graphite Plant, and general operating expenses. The \$58.1 million decrease in 2022 was primarily due to lower trading volumes and lower average stock prices in 2022 compared to 2021.

## **LIQUIDITY AND CAPITAL RESOURCES**

Since 2009, the Company has relied on equity financings, debt financings and asset sales to fund its operations. During the year ended December 31, 2022, and through the date the consolidated financial statements are issued, the Company continued construction activities related to the Kellyton Graphite Plant. The Company's construction related contracts include termination provisions at the Company's election that do not obligate the Company to make payments beyond what is incurred by the third-party service provider through the date of such termination. In its going concern analysis, the Company considered the construction activity and related costs through the date the consolidated financial statements are issued, and the Company's planned non-discretionary expenditures through March 31, 2024, which combined exceed the cash on hand as of the date of these consolidated financial statements, excluding external funding opportunities and the Company's current equity facilities.

At December 31, 2022 the Company's cash balances were \$75.2 million, inclusive of approximately 5.0 million Euros. During the year ended December 31, 2022, the Company sold approximately 13.0 million shares of common stock for net proceeds of \$25.9 million pursuant to the ATM Offering Agreement. As of December 31, 2022, the Company has \$20.8 million remaining available for future sales under the ATM Offering Agreement and has 9.7 million shares of common stock available for future sales pursuant to the 2020 Lincoln Park PA.

The Company has historically and expects to rely on debt and equity financing to fund its operations and business plan until operations commence at the Kellyton Graphite Plant. Along with evaluating the continued use of the ATM Offering Agreement and the 2020 Lincoln Park PA, the Company is considering other forms of project financing to fund the construction of the Kellyton Graphite Plant, including both Phase I and Phase II. The alternative sources of project financing could include, but are not limited to, project debt, convertible debt, or pursuing a partnership or joint venture. If funds are not available to fund the construction of Phase I of the Kellyton Graphite Plant under the Company's financing facilities or through alternative financing sources, the Company may be required to reduce or severely curtail operations, change its planned business development strategies related to the Coosa Graphite Deposit and Phase I of the Kellyton Graphite Plant, alter the construction and commissioning timeline of Phase I of the Kellyton Graphite Plant, or put the construction of Phase I on hold until additional funding is obtained. If the Company is required to abandon construction and development or alter its intended long-term plans related the Kellyton Graphite Plant, the Company could be required to evaluate the recoverability of its long-lived assets.

While the Company has utilized its equity facilities to advance its business plan and has been successful in the past raising funds through equity and debt financings as well as through the sale of non-core assets, no assurance can be given that additional financing will be available in amounts sufficient to meet its needs, or on terms acceptable to the Company. Recent declines in the equity and debt capital markets, rising interest rates, inflation and generally uncertain economic conditions could significantly impact the Company's ability to access the necessary funding to advance its business plan. Further, given the recent decline in the Company's stock price, trading volume, and the decline in the equity markets, the Company's access to the available capacity on its equity financing facilities may be limited to one-third of its public float. For additional disclosure, refer to *Note 2, Liquidity and Going Concern* to these consolidated financial statements in this Annual Report on Form 10-K.

## **OFF-BALANCE SHEET ARRANGEMENTS**

We have no off-balance sheet arrangements.

## **CRITICAL ACCOUNTING POLICIES AND ESTIMATES**

Our significant accounting policies are described in Note 1 to the consolidated financial statements in *Item 8* of this Annual Report on Form 10-K. We believe our most critical accounting policies involve those requiring the use of significant estimates and assumptions in determining values or projecting future costs.

## ***Property, Plant and Equipment***

The Company reviews and evaluates its long-lived assets for impairment when events or changes in circumstances indicate that the related carrying amounts may not be recoverable. The Company considers events or changes in circumstances such as, but not limited to, significant negative impacts in the market price of graphite and or potential graphite products, a significant adverse change in the extent or manner to which we will use our long-lived asset (or asset group), adverse social or political developments, accumulation of costs over projected budget or accumulation of costs in excess of potential future cash flows of a long-lived asset (or asset group).

Impairment is considered to exist if the total estimated future cash flows on an undiscounted basis are less than the carrying amount of the assets. An impairment loss is measured and recorded based on discounted estimated future cash flows or upon an estimate of fair value that may be received in an exchange transaction. Future cash flows are estimated based on quantities of recoverable minerals, expected commodity prices, production levels and operating costs of production and capital, based upon the projected remaining future graphite or vanadium production from each project. Existing proven and probable reserves and value beyond proven and probable reserves, including mineralization that is not part of the measured, indicated or inferred resource base, are included when determining the fair value of mine site reporting units at acquisition and, subsequently, in determining whether the assets are impaired. The term “recoverable minerals” refers to the estimated amount of graphite or vanadium that will be obtained after taking into account losses during processing and treatment. In estimating future cash flows, assets are grouped at the lowest level for which there are identifiable cash flows that are largely independent of future cash flows from other asset groups. The Company’s estimates of future cash flows are based on numerous assumptions and it is likely that actual future cash flows will be significantly different than the estimates, as actual future quantities of recoverable minerals, graphite prices, production levels and operating costs of production and availability and cost of capital are each subject to significant risks and uncertainties.

No impairment was recorded in 2022 or 2021.

## ***Inventory***

Inventory consisted of raw material of natural flake graphite concentrate purchased from a non-related third party to be used in the creation of additional samples for potential customers, the testing and commissioning of Phase I of the Kellyton Graphite Plant, and future operations. The Company values the natural flake graphite concentrate at the lower of cost or net realizable value. Net realizable value represents the estimated future sales price of the product based on current and long-term graphite prices, less the estimated costs to complete production and bring the product to sale. Write-downs of the natural flake graphite concentrate to net realizable value are reported as a component of costs applicable to sales. The current portion of inventory is determined based on the expected amounts to be processed within the next 12 months and utilize the short-term metal price assumption in estimating net realizable value. Inventory not expected to be processed within the next 12 months are classified as non-current within other long-term assets and utilize the long-term metal price assumption in estimating net realizable value. Costs are removed from raw materials using an average cost basis.

## ***Accounting for Government Grants***

On June 22, 2021, AGP entered into incentive agreements with the State of Alabama and local municipalities for the siting of the Kellyton Graphite Plant. The incentive agreements provide certain tax credits and incentives under the Alabama Jobs Act in connection with the construction of the processing facility. Additionally, in connection with and in contemplation of the incentive agreements, on July 23, 2021, AGP entered into a land lease with the Lake Martin Area Industrial Development Authority. The lease provides AGP rights to approximately 70 acres to construct and operate its commercial graphite processing facility in Coosa County, Alabama. The lease has a term of 10-years, a nominal lease payment, and transfer of title to AGP at the end of the lease term. Further, the lease provides AGP the option to purchase the land for a nominal amount during the term of the lease. The incentive agreements and the lease are accounted for by the Company as a government grant.

U.S. GAAP does not contain authoritative accounting standards for incentives and grants provided by governmental entities to a for-profit entity. Absent authoritative accounting standards, interpretative guidance issued and

commonly applied by financial statement preparers allows for the selection of accounting policies amongst acceptable alternatives. Based on facts and circumstances outlined below, the Company determined it most appropriate to account for the land received from the local municipality as an in-substance government grant by analogy to International Accounting Standards 20 (“IAS 20”), Accounting for Government Grants and Disclosure of Government Assistance. Under the provisions of IAS 20, government grants “are assistance by government in the form of transfers of resources to an entity in return for past or future compliance with certain conditions relating to the operating activities of the entity.” A government grant is recognized when there is reasonable assurance that the Company will meet the terms for receiving and realizing the benefit of the grant. IAS 20 does not define “reasonable assurance”, however, based on certain interpretations, it is analogous to “probable” as defined in Financial Accounting Standards Board (“FASB”) ASC 450-20-20 under U.S. GAAP, which is the definition the Company has applied to its determination of recognizing the land grant as of December 31, 2022. Under IAS 20, government grants are recognized in earnings on a systematic basis over the periods in which the Company recognizes costs for which the grant is intended to compensate (i.e., qualified expenses). Further, IAS 20 permits for the recognition in earnings either separately under a general heading such as other income, or as a reduction of the related expenses. The Company has elected to recognize government grant income separately within other income to present a clearer distinction in its financial statements between its operating income and the amount of net income resulting from the land grant.

As of December 31, 2021, the Company realized the fair value of the land of \$1.4 million as an increase to Property, plant, and equipment with a corresponding obligation recorded in Other long-term liabilities in the consolidated balance sheet. The land represents a non-depreciable asset on the Company’s consolidated balance sheet and will evaluate the land for impairment according to its policy on long-lived assets discussed above. The corresponding obligation recorded in Other long-term liabilities on the consolidated balance sheet will be amortized to other income over the life of the Kellyton Graphite Plant once placed in service.

## **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Smaller reporting companies are not required to provide the information required by this item.

## **ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

### **REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Shareholders and the Board of Directors of  
Westwater Resources, Inc.

#### ***Opinion on the Financial Statements***

We have audited the accompanying consolidated balance sheets of Westwater Resources, Inc. (the Company) as of December 31, 2022 and 2021, the related consolidated statements of operations, stockholders’ equity, and cash flows for the years then ended, and 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 consolidated financial position of the Company as of December 31, 2022 and 2021, and the consolidated 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.

#### ***Going Concern Uncertainty***

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 2 to the consolidated financial statements, the Company has last recorded revenues from operations in 2009 and has relied on equity financings, debt financings, and asset sales to fund operations. The Company’s current cost spend and planned non-discretionary expenditures exceed cash on hand, and there is no

assurance that financing facilities will be available in amounts sufficient to meet the Company's needs, which raises substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 2. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

### ***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 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 to 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***

Critical audit matters are matters arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee and that (1) relate to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. We determined that there are no critical audit matters.

/s/ Moss Adams LLP

Denver, Colorado  
March 6, 2023

We have served as the Company's auditor since 2017.



**WESTWATER RESOURCES, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
(expressed in thousands of dollars, except share amounts)

	December 31, 2022	December 31, 2021
<b>ASSETS</b>		
<b>Current Assets:</b>		
Cash and cash equivalents	\$ 75,196	\$ 115,293
Prepaid and other current assets	892	320
<b>Total Current Assets</b>	<u>76,088</u>	<u>115,613</u>
Property, plant and equipment, at cost:		
Property, plant and equipment	90,335	14,593
Less: Accumulated depreciation	(257)	(114)
Net property, plant and equipment	90,078	14,479
Operating lease right-of-use assets	87	226
Other long-term assets	2,155	2,665
<b>Total Assets</b>	<u>\$ 168,408</u>	<u>\$ 132,983</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>Current Liabilities:</b>		
Accounts payable	\$ 23,008	\$ 3,043
Accrued liabilities	1,963	2,129
Operating lease liability, current	91	152
<b>Total Current Liabilities</b>	<u>25,062</u>	<u>5,324</u>
Operating lease liability, net of current	—	83
Other long-term liabilities	1,378	1,378
<b>Total Liabilities</b>	<u>26,440</u>	<u>6,785</u>
<b>Commitments and Contingencies (see note 9)</b>		
<b>Stockholders' Equity:</b>		
Common stock, 100,000,000 shares authorized, \$.001 par value		
Issued shares - 48,405,543 and 35,279,724, respectively		
Outstanding shares - 48,405,382 and 35,279,563, respectively	48	35
Paid-in capital	495,456	468,578
Accumulated deficit	(353,278)	(342,157)
Less: Treasury stock (161 shares), at cost	(258)	(258)
<b>Total Stockholders' Equity</b>	<u>141,968</u>	<u>126,198</u>
<b>Total Liabilities and Stockholders' Equity</b>	<u>\$ 168,408</u>	<u>\$ 132,983</u>

The accompanying notes are an integral part of these consolidated financial statements.

**WESTWATER RESOURCES, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(expressed in thousands of dollars, except share and per share amounts)

	For the Year Ended December 31,	
	2022	2021
<b>Operating Expenses:</b>		
Product development expenses	\$ (1,145)	\$ (5,975)
Exploration expenses	(756)	(1,054)
General and administrative expenses	(9,902)	(8,875)
Arbitration costs	(142)	(2,191)
Mineral property expenses	(34)	(110)
Depreciation and amortization	(146)	(20)
<b>Total operating expenses</b>	<u>(12,125)</u>	<u>(18,225)</u>
<b>Non-Operating Income:</b>		
Sale of equity securities	—	2,057
Other income, net	1,004	24
<b>Total other income</b>	<u>1,004</u>	<u>2,081</u>
<b>Net Loss</b>	<u>\$ (11,121)</u>	<u>\$ (16,144)</u>
<b>BASIC AND DILUTED LOSS PER SHARE</b>	\$ (0.25)	\$ (0.49)
<b>WEIGHTED AVERAGE NUMBER OF SHARES OUTSTANDING</b>	44,909,500	32,653,089

The accompanying notes are an integral part of these consolidated financial statements.

**WESTWATER RESOURCES, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
(expressed in thousands of dollars, except share amounts)

	Common Stock		Paid-In Capital	Accumulated Deficit	Treasury	
	Shares	Amount			Stock	Total
<b>Balances, January 1, 2021</b>						
Net loss	19,172,020	\$ 19	\$ 383,723	(326,013)	\$ (258)	\$ 57,471
Common stock issued, net of issuance costs	—	—	—	(16,144)	—	(16,144)
Stock compensation expense and related share issuances, net of shares withheld for the payment of taxes	16,050,518	16	84,126	—	—	84,142
Minimum withholding taxes on net share settlements of equity awards	57,186	—	879	—	—	879
<b>Balances, December 31, 2021</b>						
Net loss	35,279,724	\$ 35	\$ 468,578	(342,157)	\$ (258)	\$ 126,198
Common stock issued, net of issuance costs	—	—	(150)	(11,121)	—	(11,121)
Stock compensation expense and related share issuances, net of shares withheld for the payment of taxes	12,957,847	13	25,888	—	—	25,901
Minimum withholding taxes on net share settlements of equity awards	167,972	—	1,022	—	—	1,022
<b>Balances, December 31, 2022</b>						
Net loss	—	—	(32)	—	—	(32)
Common stock issued, net of issuance costs	48,405,543	\$ 48	\$ 495,456	(353,278)	\$ (258)	\$ 141,968

The accompanying notes are an integral part of these consolidated financial statements.

**WESTWATER RESOURCES, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(expressed in thousands of dollars)

	<b>For the Year Ended December 31,</b>	
	<b>2022</b>	<b>2021</b>
<b>Operating Activities:</b>		
Net loss	\$ (11,121)	\$ (16,144)
Reconciliation of net loss to cash used in operations:		
Non-cash lease expense	(6)	(2)
Depreciation and amortization	146	20
Stock compensation expense	1,022	879
Gain on equity securities	—	(2,057)
Gain on disposal of fixed assets	(1)	—
Effect of changes in operating working capital items:		
Increase in inventories	(785)	—
(Increase) decrease in prepaids and other assets	(1,942)	101
(Increase) decrease in payables and accrued liabilities	(489)	287
<b>Net Cash Used In Operating Activities</b>	<b>(13,176)</b>	<b>(16,916)</b>
<b>Cash Flows From Investing Activities:</b>		
Proceeds from PPP loan escrow	—	333
Proceeds from the sale of equity securities, net	—	3,577
Cash deposits on long lead construction items	—	(2,665)
Proceeds from sale of fixed assets	1	—
Capital expenditures	(52,791)	(3,353)
<b>Net Cash Used In Investing Activities</b>	<b>(52,790)</b>	<b>(2,108)</b>
<b>Cash Flows From Financing Activities:</b>		
Issuance of common stock, net	25,901	84,142
Payment of minimum withholding taxes on net share settlements of equity awards	(32)	(150)
<b>Net Cash Provided By Financing Activities</b>	<b>25,869</b>	<b>83,992</b>
Net (decrease) increase in Cash and Cash Equivalents	(40,097)	64,968
Cash and Cash Equivalents, Beginning of Period	115,293	50,325
<b>Cash and Cash Equivalents, End of Period</b>	<b>\$ 75,196</b>	<b>\$ 115,293</b>
<b>Supplemental Non-Cash Information with Respect to Investing and Financing Activities:</b>		
Land grant received from local municipalities	—	1,378
Accrued capital expenditures (at end of period)	21,070	782
<b>Total Non-Cash Investing and Financing Activities for the Period</b>	<b>\$ 21,070</b>	<b>\$ 2,160</b>

The accompanying notes are an integral part of these consolidated financial statements.

## **1. THE COMPANY AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

### ***The Company***

Westwater Resources, Inc., originally incorporated in 1977, is an energy technology company focused on developing battery-grade natural graphite materials after its acquisition of Alabama Graphite in 2018. Alabama Graphite holds mineral rights to explore and potentially mine the Coosa Graphite Deposit. AGP, a wholly owned subsidiary of Westwater Resources, is currently constructing Phase I of the Kellyton Graphite Plant to process natural flake graphite concentrate into active anode material used in the lithium-ion battery. AGP hold rights to approximately 70 acres to construct and operate the Kellyton Graphite Plant in Coosa County, Alabama.

### ***Principles of Consolidation***

The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S.”) and include the accounts of Westwater Resources, Inc. and its wholly-owned subsidiaries. All significant intercompany transactions have been eliminated in consolidation.

### ***Use of Estimates***

The preparation of financial statements in conformity with generally accepted accounting principles in the U.S. “U.S. GAAP” requires management to make certain estimates and assumptions. Such estimates and assumptions 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. Actual results could differ from those estimates. The most significant estimates included in the preparation of the financial statements are related to asset retirement obligations; estimates of recoverable inventories; write-down of inventory; stock-based compensation and asset impairment, including estimates used to derive future cash flows or market value associated with those assets.

### ***Cash and Cash Equivalents***

Management considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. The Company maintains cash deposits in excess of federally insured limits. Management monitors the soundness of the financial institution and believe the risk is negligible.

### ***Property, Plant and Equipment***

#### ***Facilities and Equipment***

Expenditures for new facilities or equipment and expenditures that extend the useful lives of existing facilities or equipment are capitalized and recorded at cost. The facilities and equipment are amortized on a straight-line basis over the estimated life of the assets. During the periods that the Company’s facilities are not in production, depreciation of its facilities and equipment is suspended as the assets are not in service.

#### ***Mineral Properties***

Mineral rights acquisition costs are capitalized when incurred, and exploration costs are expensed as incurred. When management determines that a mineral right can be economically developed in accordance with U.S. GAAP, the costs then incurred to develop such property will be capitalized. During the periods that the Company’s facilities are not in production, depletion of its mineral interests, permits, licenses and development properties is suspended as the assets are not in service. If mineral properties are subsequently abandoned or impaired, any non-depleted costs will be charged to loss in that period.

### *Other Property, Plant and Equipment*

Other property, plant and equipment consisted of corporate office equipment, furniture and fixtures and transportation equipment. Depreciation on other property is computed based upon the estimated useful lives of the assets. Repairs and maintenance costs are expensed as incurred. Gain or loss on disposal of such assets is recorded as other income or expense upon disposition of such assets.

### *Inventory*

Inventory consisted of approximately 603 metric tons of raw material of natural flake graphite concentrate provided by a third-party vendor totaling \$0.8 million as of December 31, 2022. The Company values the natural flake graphite concentrate at the lower of cost or net realizable value. Net realizable value represents the estimated future sales price of the product based on current and long-term graphite prices, less the estimated costs to complete production and bring the product to sale. Write-downs of the natural flake graphite concentration to net realizable value are reported as a component of costs applicable to sales. The current portion of inventory is determined based on the expected amounts to be processed within the next 12 months and utilize the short-term metal price assumption in estimating net realizable value. Inventory not expected to be processed within the next 12 months are classified as non-current within other long-term assets and utilize the long-term metal price assumption in estimating net realizable value. Costs are removed from raw materials using an average cost basis.

### *Accounting for Government Grants*

U.S. GAAP does not contain authoritative accounting standards for incentives and grants provided by governmental entities to a for-profit entity. Absent authoritative accounting standards, interpretative guidance issued and commonly applied by financial statement preparers allows for the selection of accounting policies amongst acceptable alternatives. Based on facts and circumstances outlined below, the Company determined it most appropriate to account for the land received from the local municipality as an in-substance government grant by analogy to International Accounting Standards 20 (“IAS 20”), Accounting for Government Grants and Disclosure of Government Assistance. Under the provisions of IAS 20, government grants “are assistance by government in the form of transfers of resources to an entity in return for past or future compliance with certain conditions relating to the operating activities of the entity.” A government grant is recognized when there is reasonable assurance that the Company will meet the terms for receiving and realizing the benefit of the grant. IAS 20 does not define “reasonable assurance”, however, based on certain interpretations, it is analogous to “probable” as defined in Financial Accounting Standards Board (“FASB”) ASC 450-20-20 under U.S. GAAP, which is the definition the Company has applied to its determination of recognizing the land grant as of December 31, 2021. Under IAS 20, government grants are recognized in earnings on a systematic basis over the periods in which the Company recognizes costs for which the grant is intended to compensate (i.e. qualified expenses). Further, IAS 20 permits for the recognition in earnings either separately under a general heading such as other income, or as a reduction of the related expenses. The Company has elected to recognize government grant income separately within other income to present a clearer distinction in its financial statements between its operating income and the amount of net income resulting from the land grant.

For further information related to government grants recognized by the Company during the year ended December 31, 2021, see Note 3 to these consolidated financial statements.

### *Asset Impairment*

The Company reviews and evaluates its long-lived assets for impairment when events or changes in circumstances indicate that the related carrying amounts may not be recoverable. The Company considers events or changes in circumstances such as, but not limited to, significant negative impacts in the market price of graphite and or potential graphite products, a significant adverse change in the extent or manner to which we will use our long-lived asset (or asset group), adverse social or political developments, accumulation of costs over projected budget or accumulation of costs in excess of potential future cash flows of a long-lived asset (or asset group).

Impairment is considered to exist if the total estimated future cash flows on an undiscounted basis are less than the carrying amount of the assets. An impairment loss is measured and recorded based on discounted estimated future cash flows or upon an estimate of fair value that may be received in an exchange transaction. Future cash flows are estimated based on quantities of recoverable minerals, expected commodity prices, production levels and operating costs of production and capital, based upon the projected remaining future mineral production from each project. Existing proven and probable reserves and value beyond proven and probable reserves, including mineralization that is not part of the measured, indicated or inferred resource base, are included when determining the fair value of mine site reporting units at acquisition and, subsequently, in determining whether the assets are impaired. The term “recoverable minerals” refers to the estimated amount of mineral that will be obtained after taking into account losses during processing and treatment. In estimating future cash flows, assets are grouped at the lowest level for which there are identifiable cash flows that are largely independent of future cash flows from other asset groups. The Company’s estimates of future cash flows are based on numerous assumptions and it is likely that actual future cash flows will be significantly different than the estimates, as actual future quantities of recoverable minerals, mineral prices, production levels and operating costs of production and availability and cost of capital are each subject to significant risks and uncertainties.

### ***Fair Value of Financial Instruments***

U.S. GAAP defines “fair value” as the price that would be received to sell an asset or be paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price) and establishes a fair-value hierarchy that prioritizes the inputs used to measure fair value using the following definitions (from highest to lowest priority):

- Level 1 — Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities.
- Level 2 — Observable inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly, including quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data by correlation or other means.
- Level 3 — Prices or valuation techniques requiring inputs that are both significant to the fair-value measurement and unobservable.

The Company considers all highly liquid instruments purchased with an original maturity of three months or less to be cash equivalents. The Company continually monitors its positions with, and the credit quality of, the financial institutions with which it invests. Periodically throughout the year, the Company has maintained balances in various U.S. operating accounts in excess of U.S. federally insured limits.

### *Recurring Fair Value Measurements*

The following tables set forth the Company's assets measured at fair value on a recurring basis by level within the fair value hierarchy as of December 31, 2022 and 2021. In accordance with U.S. GAAP, assets are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The carrying amounts of certain financial instruments, including cash and accounts payable approximate fair value due to their short maturities. Consequently, such financial instruments are not included in the following tables.

(thousands of dollars)	December 31, 2022			
	Level 1	Level 2	Level 3	Total
<u>Current assets</u>				
Cash equivalent:				
Money market account	\$ 68,676	\$ —	\$ —	\$ 68,676
Total current assets recorded at fair value	<u>\$ 68,676</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 68,676</u>

(thousands of dollars)	December 31, 2021			
	Level 1	Level 2	Level 3	Total
<u>Current assets</u>				
Cash equivalent:				
Money market account	\$ 109,883	\$ —	\$ —	\$ 109,883
Total current assets recorded at fair value	<u>\$ 109,883</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 109,883</u>

### *Non-recurring Fair Value Measurements*

As discussed in Note 3, on July 23, 2021, the Company received a land grant from local municipalities related to the Kellyton Graphite Plant in Coosa County, Alabama. At inception, the Company estimated the fair value of the land to be approximately \$1.4 million. The fair value was determined using Level 3 inputs using the market approach, by considering comparable sales in the area, adjusted for property specific items; such as lot size, location and access to major highways and distribution channels. The Company recorded the fair value of the land granted as an increase to Property, Plant and Equipment with an offsetting obligation recorded in Other long-term liabilities on the consolidated balance sheet as of December 31, 2021. The Company will begin amortizing the obligation to income over the estimated useful life of the Kellyton Graphite Plant when the plant is placed into service.

The following table presents information about assets and liabilities recognized at fair value on a non-recurring basis by level within the fair value hierarchy as of December 31, 2021. There were no assets or liabilities recognized at fair value on a non-recurring basis by level as of December 31, 2022:

(thousands of dollars)	December 31, 2021			
	Level 1	Level 2	Level 3	Total
<u>Non-current Assets</u>				
Land grant	\$ —	\$ —	\$ 1,378	\$ 1,378
Total non-current assets recorded at fair value	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 1,378</u>	<u>\$ 1,378</u>
<u>Non-current Liabilities</u>				
Land grant obligation	\$ —	\$ —	\$ (1,378)	\$ (1,378)
Total non-current liabilities recorded at fair value	<u>\$ —</u>	<u>\$ —</u>	<u>\$ (1,378)</u>	<u>\$ (1,378)</u>

### *Loss Per Share*

Basic loss per share is computed using the weighted-average number of shares outstanding during the period. Diluted loss per share is not presented as the effect on the basic loss per share would be anti-dilutive. At December 31, 2022 and 2021, the Company had 1,564,168 and 662,580, respectively, in potentially dilutive securities.



### ***Foreign Currency***

The functional currency for all foreign subsidiaries of the Company was determined to be the U.S. dollar since its foreign subsidiaries are direct and integral components of Westwater Resources Inc. and are dependent upon the economic environment of Westwater Resources Inc.'s functional currency. Accordingly, the Company has translated its monetary assets and liabilities at the period-end exchange rate and the non-monetary assets and liabilities at historical rates, with income and expenses translated at the average exchange rate for the current period. All translation gains and losses have been included in the current period loss.

### ***Product Development Expenses***

Product development expenses for the years ended December 31, 2022, and 2021 were \$1.1 and \$6.0 million, respectively. Product development costs for the year ended December 31, 2022 primarily relate to continued product development, product optimization costs, and continued sample production of battery-grade natural graphite products for evaluation by potential customers. Product development costs for the year ended December 31, 2021 were primarily comprised of expenses for our definitive feasibility study related to Phase I of the Kellyton Graphite Plant and our graphite processing pilot program that were both completed in 2021.

### ***Recently Adopted Accounting Pronouncements***

In December 2019, the Financial Accounting Standards Board ("FASB") issued ASU 2019-12, "Income Taxes - Simplifying the Accounting for Income Taxes (Topic 740)" which is intended to simplify various aspects related to accounting for income taxes. ASU 2019-12 removes certain exceptions to the general principles in Topic 740 and also clarifies and amends existing guidance to improve consistent application. ASU 2019-12 became effective for interim and annual periods beginning after December 15, 2020. The adoption of ASU 2019-12 did not result in a material impact to our condensed consolidated financial statements.

In November 2021, the Financial Accounting Standards Board ("FASB") issued ASU 2021-10, "Government Assistance (Topic 832): Disclosures by Business Entities about Government Assistance" ("ASU 2021-10"). ASU 2021-10 increases the transparency of government assistance including the disclosure of (1) the types of assistance, (2) an entity's accounting for the assistance, and (3) the effect of the assistance on an entity's financial statements. ASU 2021-10 became effective for annual periods beginning after December 15, 2021. The adoption of ASU 2021-10 did not result in a material impact to our condensed consolidated financial statements.

### ***Recently Issued Accounting Pronouncements***

In June 2016, the FASB issued ASU 2016-13, "Measurement of Credit Losses on Financial Instruments." ASU 2016-13 will change how companies account for credit losses for most financial assets and certain other instruments. For trade receivables, loans and held-to-maturity debt securities, companies will be required to estimate lifetime expected credit losses and recognize an allowance against the related instruments. For available for sale debt securities, companies will be required to recognize an allowance for credit losses rather than reducing the carrying value of the asset. The adoption of this update, if applicable, will result in earlier recognition of losses and impairments. ASU 2016-13 will be effective for interim and annual periods beginning after December 15, 2022. The adoption of this standard on January 1, 2023, did not have an impact on our consolidated financial statements.

In November 2018, the FASB issued ASU 2018-19, "Codification Improvements to ASC 326, Financial Instruments – Credit Losses", which clarified that receivables arising from operating leases are not within the scope of Subtopic 326-20. Instead, impairment of receivables arising from operating leases should be accounted for in accordance with ASC 842, Leases. ASU 2018-19 will be effective for interim and annual periods beginning after December 15, 2022. The adoption of this standard on January 1, 2023, did not have an impact on our consolidated financial statements.

## 2. LIQUIDITY AND GOING CONCERN

The Consolidated Financial Statements of the Company have been prepared on a “going concern” basis, which means that the continuation of the Company is presumed even though events and conditions exist that, when considered in the aggregate, raise substantial doubt about the Company’s ability to continue as a going concern because it is possible that the Company will be required to adversely change its current business plan or may be unable to meet its obligations as they become due within one year after the date that these financial statements were issued.

Management considered the following events and conditions in its going concern analysis. The Company last recorded revenues from operations in 2009. Since 2009, the Company has relied on equity financings, debt financings and asset sales to fund its operations. During the year ended December 31, 2022, and through the date the consolidated financial statements are issued, the Company continued construction activities related to the Kellyton Graphite Plant. The Company’s construction related contracts include termination provisions at the Company’s election that do not obligate the Company to make payments beyond what is incurred by the third-party service provider through the date of such termination. In its going concern analysis, the Company considered the construction activity and related costs through the date the consolidated financial statements are issued, and the Company’s planned non-discretionary expenditures through March 31, 2024, which combined exceed the cash on hand as of the date of these consolidated financial statements, excluding external funding opportunities and the Company’s current equity facilities.

At December 31, 2022 the Company’s cash balances were \$75.2 million, inclusive of approximately 5.0 million Euros. During the year ended December 31, 2022, the Company sold approximately 13.0 million shares of common stock for net proceeds of \$25.9 million pursuant to the ATM Offering Agreement. As of December 31, 2022, the Company has \$20.8 million remaining available for future sales under the ATM Offering Agreement and has 9.7 million shares of common stock available for future sales pursuant to the 2020 Lincoln Park PA.

The Company has historically and expects to rely on debt and equity financing to fund its operations and business plan until operations commence at the Kellyton Graphite Plant. Along with evaluating the continued use of the ATM Offering Agreement and the 2020 Lincoln Park PA, the Company is considering other forms of project financing to fund the construction of the Kellyton Graphite Plant, including both Phase I and Phase II. The alternative sources of project financing could include, but are not limited to, project debt, convertible debt, or pursuing a partnership or joint venture. If funds are not available to fund the construction of Phase I of the Kellyton Graphite Plant under the Company’s financing facilities or through alternative financing sources, the Company may be required to reduce or severely curtail operations, change its planned business development strategies related to the Coosa Graphite Deposit and Phase I of the Kellyton Graphite Plant, alter the construction and commissioning timeline of Phase I of the Kellyton Graphite Plant, or put the construction of Phase I on hold until additional funding is obtained. If the Company is required to abandon construction and development or alter its intended long-term plans related the Kellyton Graphite Plant, the Company could be required to evaluate the recoverability of its long-lived assets.

While the Company has utilized its equity facilities to advance its business plan and has been successful in the past raising funds through equity and debt financings as well as through the sale of non-core assets, no assurance can be given that additional financing will be available in amounts sufficient to meet its needs, or on terms acceptable to the Company. Recent declines in the equity and debt capital markets, rising interest rates, inflation and generally uncertain economic conditions could significantly impact the Company’s ability to access the necessary funding to advance its business plan. Further, given the recent decline in the Company’s stock price, trading volume, and the decline in the equity markets, the Company’s access to the available capacity on its equity financing facilities may be limited to one-third of its public float.

When considering the above events and conditions in the aggregate, the Company believes such events and conditions raise substantial doubt about its ability to continue as a going concern within one year after the date that these financial statements were issued.

### 3. PROPERTY, PLANT AND EQUIPMENT

(thousands of dollars)	Net Book Value of Property Plant and Equipment at December 31, 2022		
	Alabama	Corporate	Total
Mineral rights and properties	\$ 8,972	\$ —	\$ 8,972
Other property, plant and equipment	5,745	24	5,769
Construction in progress	75,337	—	75,337
Total	<u>\$ 90,054</u>	<u>\$ 24</u>	<u>\$ 90,078</u>

(thousands of dollars)	Net Book Value of Property Plant and Equipment at December 31, 2021		
	Alabama	Corporate	Total
Mineral rights and properties	\$ 8,972	\$ —	\$ 8,972
Other property, plant and equipment	4,462	28	4,490
Construction in progress	1,017	—	1,017
Total	<u>\$ 14,451</u>	<u>\$ 28</u>	<u>\$ 14,479</u>

#### *Construction in Progress*

Construction in progress represents assets that are not ready for service or are in the construction stage. Assets are depreciated based on the estimated useful life of the asset once it is placed in service.

During the first quarter of 2022, the manufacturing of certain equipment commenced, for which the Company made cash deposits of \$2.7 million as of December 31, 2021. As such, the deposits as of December 31, 2021 are now reflected as construction in progress as of December 31, 2022, and will continue to be included in construction in progress until such assets are placed into service.

#### *Impairment of Property, Plant and Equipment*

The Company reviews and evaluates its long-lived assets for impairment on an annual basis or more frequently when events or changes in circumstances indicate that the related carrying amounts may not be recoverable. For the years ended December 31, 2022 and 2021, no impairment charges were recorded on the Company's assets.

#### *Land Addition*

On June 22, 2021, AGP entered into incentive agreements with the State of Alabama and local municipalities for the siting of the Kellyton Graphite Plant. The incentive agreements provide certain tax credits and incentives under the Alabama Jobs Act in connection with the construction of the processing facility. Additionally, in connection with and in contemplation of the incentive agreements, on July 23, 2021, AGP entered into a land lease with the Lake Martin Area Industrial Development Authority. The lease provides AGP rights to approximately 70 acres to construct and operate its commercial graphite processing facility in Coosa County, Alabama. The lease has a term of 10-years, a nominal lease payment, and transfer of title to AGP at the end of the lease term. Further, the lease provides AGP the option to purchase the land for a nominal amount during the term of the lease. The incentive agreements and the lease are accounted for by the Company as a government grant; whereby the Company realized the fair value of the land of \$1.4 million as an increase to Property, plant, and equipment with a corresponding obligation recorded in Other long-term liabilities in the consolidated balance sheet at December 31, 2021. The land represents a non-depreciable asset on the Company's consolidated balance sheet. The corresponding obligation recorded in Other long-term liabilities on the consolidated balance sheet will be amortized to other income over the life of the Kellyton Graphite Plant once placed in service.

#### 4. ACCRUED LIABILITIES

Accrued liabilities on the balance sheet as of December 31, 2022 and 2021 consisted of:

	December 31,	
	2022	2021
	(thousands of dollars)	
Royalties payable <sup>(1)</sup>	\$ 1,151	\$ 1,151
Other Accrued Liabilities	812	978
Accrued Liabilities	<u>\$ 1,963</u>	<u>\$ 2,129</u>

(1) Royalties payable were derived during prior years of production. Liabilities do not accrue interest or have a stated maturity date.

#### 5. STOCKHOLDER'S EQUITY

##### *Common Stock Issued, Net of Issuance Costs*

##### *December 2020 Purchase Agreement with Lincoln Park Capital, LLC ("Lincoln Park")*

On December 4, 2020, the Company entered into the 2020 Lincoln Park PA with Lincoln Park (the "2020 Lincoln Park PA") to place up to \$100.0 million or 16 million shares in the aggregate of the Company's common stock on an ongoing basis when required by the Company over a term of 36 months. The Company controls the timing and amount of any sales to Lincoln Park, and Lincoln Park is obligated to make purchases in accordance with the 2020 Lincoln Park PA. Any common stock that is sold to Lincoln Park will occur at a purchase price that is based on an agreed upon fixed discount to the Company's prevailing market prices at the time of each sale and with no upper limits to the price Lincoln Park may pay to purchase common stock. The Lincoln Park PA may be terminated by the Company at any time, in its sole discretion, without any additional cost or penalty.

The 2020 Lincoln Park PA specifically provides that the Company may not issue or sell any shares of its common stock under the agreement if such issuance or sale would breach any applicable rules of the NYSE American Stock Exchange ("NYSE American"). In particular, NYSE American General Rule 713(a) provides that the Company may not issue or sell more than 19.99% of the number of shares of the Company's common stock that were outstanding immediately prior to the execution of the December 2020 PA unless (i) shareholder approval is obtained or (ii) the average price of all applicable sales of common stock to Lincoln Park under the December 2020 PA, equals or exceeds \$6.15. The Company held its 2021 Annual Shareholders Meeting on May 21, 2021, and obtained shareholder approval for the issuance of more than 19.99% of the shares of the Company's common stock outstanding under the 2020 Lincoln Park PA.

Lincoln Park has no right to require the Company to sell any shares of common stock to Lincoln Park, but Lincoln Park is obligated to make purchases as the Company directs, subject to certain conditions. In all instances, the Company may not sell shares of its common stock to Lincoln Park under the 2020 Lincoln Park PA if it would result in Lincoln Park beneficially owning more than 9.99% of its common stock at any one point in time.

Since inception, the Company has sold 6.3 million shares of common stock to Lincoln Park pursuant to the 2020 Lincoln Park PA.

During the year ended December 31, 2022, the Company did not sell any shares of common stock pursuant to the 2020 Lincoln Park PA. During the year ended December 31, 2021, pursuant to the 2020 Lincoln Park PA, the Company sold approximately 6.1 million shares of common stock for net proceeds of \$34.6 million. These shares were sold pursuant to a prospectus supplement filed on December 4, 2020, and in accordance with Rule 424(b)(5) as a takedown off the Company's shelf registration statement, which had been declared effective by the Securities and Exchange Commission (the "SEC") on December 1, 2020.

### *Controlled Equity Offering Sales Agreement with Cantor Fitzgerald & Co. (“Cantor”)*

On April 14, 2017, the Company entered into the ATM Offering Agreement with Cantor acting as sales agent. Under the ATM Offering Agreement, the Company may from time to time sell shares of its common stock in “at-the-market” offerings. The Company pays Cantor a commission of up to 2.5% of the gross proceeds from the sale of any shares pursuant to the ATM Offering Agreement.

During the year ended December 31, 2022, the Company sold approximately 13.0 million shares of common stock for net proceeds of \$25.9 million pursuant to the ATM Offering Agreement. During the year ended December 31, 2021, the Company sold approximately 10.0 million shares of common stock for net proceeds of \$49.5 million pursuant to the ATM Offering Agreement with Cantor.

Sales made under the ATM Offering Agreement are made pursuant to a prospectus supplement filed pursuant to Rule 424(b)(5), which registered for sale up to a total of \$50.0 million of the Company’s common stock, which was filed on August 20, 2021 as a takedown off the Company’s shelf registration statement on Form S-3, which was declared effective by the Commission on July 8, 2021.

As of December 31, 2022, the Company has received total gross proceeds of \$29.2 million of the \$50.0 million registered for sale under the ATM Offering Agreement pursuant to Rule 424(b)(5) as described above.

## **6. STOCK BASED COMPENSATION**

Stock-based compensation awards consist of stock options, restricted stock units and bonus shares issued under the Company’s equity incentive plans, which include the 2013 Omnibus Incentive Plan, as amended (the “2013 Plan”) and the Amended and Restated 2004 Directors’ Stock Option and Restricted Stock Plan (the “2004 Directors’ Plan”). Under the 2013 Plan, the Company may grant awards of stock options, stock appreciation rights, restricted stock awards, restricted stock units (“RSUs”), unrestricted stock, dividend equivalent rights, performance shares and other performance-based awards, other equity-based awards and cash bonus awards to eligible persons. Equity awards under the 2013 Plan are granted from time to time at the discretion of the Compensation Committee of the Board (the “Committee”), with vesting periods and other terms as determined by the Committee with a maximum term of 10 years. The 2013 Plan is administered by the Committee, which can delegate the administration to the Board, other committees or to such other officers and employees of the Company as designated by the Committee and permitted by the 2013 Plan.

As of December 31, 2022, 215,025 shares were available for future issuances under the 2013 Plan. For the years ended December 31, 2022 and 2021, the Company recorded stock-based compensation expense of \$1.0 million and \$0.9 million, respectively. Stock compensation expense is recorded in general and administrative expenses.

In addition to the plans above, on May 9, 2022, the Board of Directors adopted an Employment Inducement Incentive Award Plan (the “Inducement Plan”) and on May 13, 2022, the Company filed a registration statement on Form S-8 to register an aggregate of 250,000 shares of the Company’s common stock. These shares may be issued pursuant to the Inducement Plan as equity awards to be granted for the sole purpose of recruiting and hiring new employees. As of December 31, 2022, 61,947 restricted stock units have been issued under the Inducement Plan that vest over two years.

## Stock Options

Stock options are valued using the Black-Scholes option pricing model on the date of grant. The Company accounts for forfeitures upon occurrence.

The following table summarizes stock options outstanding and changes during the years ended December 31, 2022 and 2021:

	December 31, 2022		December 31, 2021	
	Number of Stock Options	Weighted Average Exercise Price	Number of Stock Options	Weighted Average Exercise Price
Stock options outstanding at beginning of period	277,576	\$ 6.18	185,054	\$ 7.70
Granted	78,720	1.09	94,522	3.91
Expired	—	—	(2,000)	73.54
Stock options outstanding at end of period	356,296	5.06	277,576	6.18
Stock options exercisable at end of period	277,576	\$ 6.18	183,054	\$ 7.35

The weighted average remaining term for stock options outstanding as of December 31, 2022, is approximately 7.9 years. The following table summarizes stock options outstanding and exercisable by stock option plan at December 31, 2022:

Stock Option Plan	Outstanding Stock Options		Exercisable Stock Options	
	Number of Outstanding Stock Options	Weighted Average Exercise Price	Number of Stock Options Exercisable	Weighted Average Exercise Price
2004 Plan	92	\$ 1,638.00	92	\$ 1,638.00
2004 Directors' Plan	3	10,380.00	3	10,380.00
2013 Plan	356,201	4.55	277,481	5.53
	356,296	\$ 5.06	277,576	\$ 6.18

The following table summarizes assumptions used to assess the fair value of stock options granted during the years ended December 31, 2022 and 2021:

	Years ended December 31,	
	2022	2021
Expected volatility	105%	113%
Expected term of options (years)	6	6
Expected dividend rate	—	—
Risk-free interest rate	2.95%	0.82%
Expected forfeiture rate	—	—
Weighted-average grant-date fair value	\$ 0.89	\$ 3.28

As of December 31, 2022, the Company had less than \$0.1 million of unrecognized compensation costs related to non-vested stock options that will be recognized over a period of approximately five months.

## Restricted Stock Units

Time-based and performance-based RSUs are valued using the closing share price of the Company's common stock on the date of grant. The final number of shares issued under performance-based RSUs is generally based on the Company's prior year performance as determined by the Committee at each vesting date, and the valuation of such awards assumes full satisfaction of all performance criteria.

The following table summarizes RSU activity for the years ended December 31, 2022 and 2021:

	December 31, 2022		December 31, 2021	
	Number of RSUs	Weighted- Average Grant Date Fair Value	Number of RSUs	Weighted- Average Grant Date Fair Value
Unvested RSUs at beginning of period	385,004	\$ 3.18	236,403	\$ 2.10
Granted	1,229,950	1.16	227,402	3.93
Forfeited/Expired	(225,091)	2.39	—	—
Vested	(181,991)	2.31	(78,801)	2.10
Unvested RSUs at end of period	<u>1,207,872</u>	<u>\$ 1.40</u>	<u>385,004</u>	<u>\$ 3.18</u>

As of December 31, 2022, the Company had \$0.6 million of unrecognized compensation costs related to non-vested restricted stock units that will be recognized over a period of approximately 2 years.

## 7. OTHER INCOME, NET

(thousands of dollars)	For the Year Ended December 31,	
	2022	2021
<b>Other income:</b>		
Foreign exchange loss	\$ (52)	\$ —
Interest income	1,054	26
Other income (expense)	2	(2)
<b>Total other income, net</b>	<u>\$ 1,004</u>	<u>\$ 24</u>

As of December 31, 2022, the Company recognized \$0.1 million of foreign currency exchange loss related to our Euro denominated bank account. As of December 31, 2022, the Company's cash balance included approximately 5.0 million Euros. The foreign exchange loss was calculated using the exchange rate as of the balance sheet date. A change in the Euro to USD exchange rate of \$0.01 results in a foreign exchange adjustment of less than \$0.1 million.

As of December 31, 2022, the Company recognized interest income of \$1.1 million in our investment account.

## 8. FEDERAL INCOME TAXES

The Company recognizes future tax assets and liabilities for each tax jurisdiction based on the difference between the financial reporting and tax basis of assets and liabilities using the enacted tax rates expected to be in effect when the taxes are paid or recovered. A valuation allowance is provided against net future tax assets for which the Company does not consider the realization of such assets to meet the required "more likely than not" standard.

The Company's future tax assets and liabilities at December 31, 2022 and 2021 include the following components:

	<b>December 31,</b>	
	<b>2022</b>	<b>2021</b>
	<b>(thousands of dollars)</b>	
Deferred tax assets:		
Non-Current:		
Net operating loss carryforwards	\$ 22,584	\$ 21,016
Capital loss carryforwards	22,508	22,523
Mineral properties	3,694	5,017
Capitalized joint venture costs	3,427	3,427
Fixed assets	1,921	148
Capitalized transaction costs	1,150	1,157
Share based compensation	418	405
Accrued vacation	62	25
Other	26	61
Deferred tax assets	55,790	53,779
Valuation allowance	(55,769)	(53,723)
Net deferred tax assets	21	56
Deferred tax liabilities:		
Non-Current:		
Other	(21)	(56)
Deferred tax liabilities	(21)	(56)
Net deferred tax asset (liability)	\$ —	\$ —

The composition of the valuation allowance by tax jurisdiction is summarized as follows:

	<b>December 31,</b>	
	<b>2022</b>	<b>2021</b>
	<b>(thousands of dollars)</b>	
United States	\$ 44,644	\$ 42,069
Australia	4,790	5,096
Turkey	6,335	6,558
Total valuation allowance	\$ 55,769	\$ 53,723

The valuation allowance increased \$2.0 million from the year ended December 31, 2021 to the year ended December 31, 2022. There was an increase in the net deferred tax assets, net operating loss carryforwards ("NOLs"), equity-based compensation and exploration spending on mineral properties.

In December 2017, the United States enacted comprehensive tax reform legislation known as the "Tax Cuts and Jobs Act" that, among other things, reduces the U.S. Federal corporate income tax rate from 35% to 21% and implements a territorial tax system, but imposes an alternative 'base erosion and anti-abuse tax' ('BEAT'), and incremental tax on global intangible low tax foreign income ('GILTI') effective January 1, 2018. The Company has selected an accounting policy with respect to both the new BEAT and GILTI rules to compute the related taxes in the period the Company become subject to these rules. There were no inclusions of either taxes during the year ended December 31, 2022.

Because the Company does not believe it is more likely than not that the net deferred tax assets will be realized, the Company continues to record a 100% valuation against the net deferred tax assets.

At December 31, 2022, the Company had U.S. net operating loss carryforwards of approximately \$271.3 million which expire from 2023 to indefinite availability. As a result of the Tax Cuts and Jobs Act of 2017, U.S. net operating



losses generated in years ending after 2017 have an indefinite carryforward rather than the previous 20-year carryforward. This does not impact losses incurred in years ended in 2017 or earlier. At December 31, 2022, the Company had U.S. capital loss carryforwards of approximately \$106.1 million, which expire in 2026 if not utilized. In addition, at December 31, 2022, the Company had Australian net operating loss carryforwards of \$15.2 million, including approximately \$13.3 million associated with the Anatolia Transaction which are available indefinitely, subject to continuing to meet relevant statutory tests. In Turkey, the Company had net operating loss carryforwards of approximately \$3.4 million, which expire from 2023 to 2025.

Federal and state laws impose substantial restrictions on the utilization of NOL carryforwards in the event of an ownership change for income tax purposes, as defined in Section 382 of the Internal Revenue Code (“IRC”). Pursuant to IRC Section 382, annual use of the Company’s NOL carryforwards may be limited in the event a cumulative change in ownership of more than 50% occurs within a three-year period. Following the issuance of the Company’s Common Stock in 2001, the Neutron merger in 2012, the Anatolia Transaction in 2015 and the Alabama Graphite acquisition in 2018, the ability to utilize the net operating loss carryforwards will be severely limited on an annual and aggregate basis. A formal Section 382 study would be required to determine the actual allowable usage of US net operating loss carryforwards. However, it is possible that past ownership changes will result in the inability to utilize a significant portion of the Company’s NOL carryforward that was generated prior to any change of control. The Company’s ability to use its remaining NOL carryforwards may be further limited if the Company experiences an IRC Section 382 ownership change in connection with future changes in the Company’s stock ownership. Based on information currently available, the Company currently estimates that \$211.9 million of the U.S. net operating losses will not be able to be utilized and have reduced the Company’s deferred tax asset accordingly. This resulted in a decrease in the valuation allowance.

For financial reporting purposes, loss from operations before income taxes consists of the following components:

	<b>For the year ended December 31,</b>	
	<b>2022</b>	<b>2021</b>
	<b>(thousands of dollars)</b>	
United States	\$ (11,082)	\$ (16,103)
Australia	(5)	(6)
Turkey	(34)	(35)
	<u>\$ (11,121)</u>	<u>\$ (16,144)</u>

A reconciliation of expected income tax on net income at statutory rates is as follows:

	<b>Year ended December 31,</b>	
	<b>2022</b>	<b>2021</b>
	<b>(thousands of dollars)</b>	
Net loss	\$ (11,121)	\$ (16,144)
Statutory tax rate	21%	21%
Tax recovery at statutory rate	(2,335)	(3,390)
State tax rate	(672)	(1,173)
Foreign tax rate	(1)	(2)
Change in U.S. tax rates	(32)	(759)
Other adjustments	180	97
Operating loss carryforward adjustment	685	(1,409)
Operating loss Section 382 adjustment	110	(7)
Nondeductible expenses and other permanent items	19	(78)
Sale of Uranium Entities	—	(799)
Change in valuation allowance	2,046	7,520
Income tax expense (recovery)	<u>\$ —</u>	<u>\$ —</u>

The Company does not have any uncertain tax positions. Should the Company incur interest and penalties relating to tax uncertainties, such amounts would be classified as a component of the interest expense and operating expense, respectively.

Westwater Resources, Inc., and its wholly owned subsidiaries, files in the U.S. federal jurisdiction and various state jurisdictions. Anatolia Energy Limited and Anatolia Uranium Pty Ltd file in the Australian jurisdiction and Adur Madencilik files in the Turkish jurisdiction. Alabama Graphite Corporation files in U.S. federal and state jurisdictions.

## **9. COMMITMENTS AND CONTINGENCIES**

### ***Legal Settlements***

Future operations on the Company's properties are subject to federal and state regulations for the protection of the environment, including air and water quality. The Company evaluates the status of current environmental laws and their potential impact on current operating costs and accrual for future costs. The Company believes its operations are materially compliant with current, applicable environmental regulations.

At any given time, the Company may enter into negotiations to settle outstanding legal proceedings and any resulting accruals will be estimated based on the relevant facts and circumstances applicable at that time. We do not expect that such settlements will, individually or in the aggregate, have a material effect on our financial position, results of operations or cash flows.

For details on current legal proceedings see *Item 3, Legal Proceedings*.

## **10. LEASES**

The Company's lease portfolio consists of an operating lease for the corporate office, storage space and equipment. The corporate office lease has a remaining lease term of 0.6 years and includes an option to extend the lease for 3 years. Under our corporate office lease, we are required to reimburse the lessor each month for common use expenses such as maintenance and security services. Because these amounts are variable from year to year and not specifically set in the lease terms, they are not included in the measurement of the right-of-use asset and related lease liability, but rather expensed in the period incurred.

The Company is party to several leases that have terms that are less than a year in length. These include leases for land used in exploration activities, office equipment, machinery, office space, storage and other. The Company has elected the short-term lease exemption allowed under the new leasing standards, whereby leases with initial terms of one year or less are not capitalized and instead expensed on a straight-line basis over the lease term. In addition, the Company holds several leases related to mineral exploration and production to which it has not applied the new leasing standard. Leases to explore or use minerals and similar nonregenerative resources are specifically excluded by ASC 842, "Leases."

The right-of-use assets represent our right to use an underlying asset for the lease term and lease liabilities represent our obligation to make lease payments arising from the lease. Right-of-use assets and lease liabilities were recognized at the commencement date of the lease based on the present value of lease payments over the lease term using a discount rate of 9.5%. This rate is the Company's estimated incremental borrowing rate at the lease commencement date.

The components of lease expense were as follows:

(thousands of dollars)	For the Year Ended December 31,	
	2022	2021
Operating lease cost	\$ 153	\$ 154

Supplemental cash flow information related to leases was as follows:

(thousands of dollars)	For the Year Ended December 31,	
	2022	2021
<b>Cash paid for amounts included in lease liabilities:</b>		
Operating cash flows from operating leases	\$ 158	\$ 154
<b>Right-of-use assets obtained in exchange for lease obligations:</b>		
Operating leases	\$ 87	\$ 226

Supplemental balance sheet information related to leases was as follows:

(thousands of dollars)	December 31, 2022	December 31, 2021
<b>Operating Leases</b>		
Operating lease right-of-use assets	\$ 87	\$ 226
Operating lease liability, current	91	152
Operating lease liabilities – long term portion	—	83
Total operating lease liabilities	\$ 91	\$ 235

Weighted-average remaining lease term and discount rate for the Company's operating leases are as follows:

	For the Year Ended December 31,	
	2022	2021
Weighted Average Remaining Lease Term (in years)	0.6	1.6
Discount Rate	9.5 %	9.5 %

Maturities of lease liabilities are as follows:

Lease payments by year (in thousands)	December 31, 2022
2023	92
<b>Total lease payments</b>	92
Less imputed interest	(1)
<b>Total</b>	<b>\$ 91</b>

As of December 31, 2022, the Company has \$0.1 million in right-of-use assets and \$0.1 million in related lease liabilities (all of which is current). The most significant operating lease is for its corporate office in Centennial, Colorado, with \$0.1 million remaining in undiscounted cash payments through the end of the lease term in 2023. The total undiscounted cash payments remaining on operating leases through the end of their respective terms is \$0.1 million.

As of December 31, 2022, the Company has entered into certain leases that have not yet commenced. Each of the leases relate to equipment to be used at the Kellyton Graphite Plant and will commence in 2023 with lease terms of 5 years. The net present value of such leases is \$1.1 million.

## **11. SUBSEQUENT EVENT**

### ***Management Changes***

On January 16, 2023, the Board of Directors of Westwater Resources, Inc. appointed Frank Bakker, previously serving as Vice President and General Manager – Alabama Graphite Products, as President and Chief Executive Officer of the Company effective January 16, 2023. In addition, Steven M. Cates, previously serving as the Vice President – Finance and Chief Financial Officer, was appointed Senior Vice President – Finance and Chief Financial Officer of the Company effective January 16, 2023. Also, John W. Lawrence, the Company’s General Counsel and Corporate Secretary, became Chief Administrative Officer, General Counsel and Corporate Secretary effective January 16, 2023.

### ***Arbitration Against Turkey***

On March 3, 2023, the arbitral tribunal issued its final award in Westwater’s proceeding against the Republic of Turkey. The tribunal determined that Westwater’s investment in Turkey was protected by Reciprocal Encouragement and Protection of Investments (the “Treaty”), and that Turkey’s cancellation of Company’s licenses amounted to an expropriation of Westwater’s investment in violation of Turkey’s obligations under the Treaty. The tribunal disagreed with Westwater’s projections of what its investment was worth and how much the investment would have returned if Turkey had not cancelled the licenses. The tribunal’s award requires Turkey to pay Westwater a total of approximately \$1.3 million in damages, to reimburse Westwater for its fees, expenses and costs of the arbitration amounting to approximately \$3.7 million, and to pay interest in an amount yet to be determined.

As of December 31, 2022, Westwater has not recognized the tribunal’s award in its consolidated financial statements. Recognition of the tribunal’s award in Westwater’s consolidated financial statements occurs when and if collection is probable.

## **ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.**

None

## **ITEM 9A. CONTROLS AND PROCEDURES**

### **EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES**

The Company maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed in its filings with the SEC is recorded, processed, summarized and reported within the time period specified in the SEC’s rules and forms, and that such information is accumulated and communicated to management, including its Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management has recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply judgment in evaluating its controls and procedures.

During the fiscal period covered by this report, the Company’s management, with the participation of the Chief Executive Officer and Chief Financial Officer of the Company, carried out an evaluation of the effectiveness of the design and operation of the Company’s disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Based on that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures were effective as of December 31, 2022.

### **MANAGEMENT’S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

Management of the Company is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. The Company’s internal control

over financial reporting is designed, under the supervision of the Company's Chief Executive Officer and Chief Financial Officer, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP. The Company's internal control over financial reporting includes those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. GAAP, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

The Company's management conducted an evaluation of the effectiveness of the Company's internal control over financial reporting as of December 31, 2022. This evaluation was based on the framework in *Internal Control—Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission, or COSO. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP.

Based on management's evaluation under the COSO 2013 framework, management concluded that internal control over financial reporting was effective as of December 31, 2022.

This annual report does not include an attestation report of the Company's independent public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's independent public accounting firm pursuant to rules of the SEC that permit the Company to provide only management's report in this annual report.

#### *Changes in Internal Controls over Financial Reporting*

We have commenced initiatives to improve our enterprise resource planning ("ERP") system. We believe this new system will enhance our internal control over financial reporting due to increased automation. We will continue to monitor our internal control over financial reporting for effectiveness throughout the transition.

In November 2022, we implemented a new payroll system that is hosted by an external service provider. As a result of this implementation, we replaced internal controls that were previously considered effective with new or modified controls that are also effective.

Except for changes in internal controls that we have made related to the integration of the new payroll system and our continuous monitoring of the new ERP system, there were no changes in the Company's internal control over financial reporting during the quarter ended December 31, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

#### **ITEM 9B. OTHER INFORMATION**

None

#### **ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS**

Not applicable

### **PART III**

*Items 10, 11, 12, 13 and 14* for the Company are incorporated by reference to Westwater Resources, Inc.'s Definitive Proxy Statement relating to its 2023 Annual Meeting of Stockholders. Specifically, reference is made to "Election of Directors," "Corporate Governance," "Executive Officers" and "Delinquent Section 16(a) Reports," if required, for *Item 10*, "Executives and Executive Compensation," and "Director Compensation" for *Item 11*, "Ownership

of Westwater Common Stock” and “Securities Authorized for Issuance Under Equity Compensation Plans” for *Item 12*, “Related Party Transactions” and “Director Independence” for *Items 13*, and “Audit and Non-Audit Fees” for *Item 14*. The Company’s independent registered public accounting firm is Moss Adams LLP, Denver, CO, PCAOB ID: 659.

## ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

Exhibit Number	Description
2.1	Securities Purchase Agreement, dated December 31, 2020, by and among enCore Energy Corp., the Company and URI Neutron Holdings II, Inc. (incorporated by reference to Exhibit 2.1 to the Company’s Current Report on Form 8-K filed on December 31, 2020).
3.1	Restated Certificate of Incorporation of the Company, as amended through April 22, 2019 (incorporated by reference to Exhibit 3.1 to the Company’s Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2019).
3.2	Amended and Restated Bylaws of the Company, as amended August 21, 2017 (incorporated by reference to Exhibit 3.2 to the Company’s Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2017).
4.1	Description of Securities.
10.1*	Westwater Resources, Inc. 2004 Stock Incentive Plan (incorporated by reference to Exhibit 10.35 to the Company’s Quarterly Report on Form 10-QSB/A for the quarterly period ended September 30, 2005).
10.2*	Amended and Restated 2004 Directors’ Stock Option Plan dated April 10, 2007 (incorporated by reference to Exhibit 10.43 to the Company’s Post- Effective Amendment No. 1 to Registration Statement on Form S-3 filed April 11, 2007, SEC File No. 333-133960).
10.3*	Amended and Restated 2004 Directors’ Stock Option and Restricted Stock Plan dated April 1, 2010 (incorporated by reference to Exhibit 10.43.1 to the Company’s Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2010).
10.4*	Westwater Resources, Inc. 2013 Omnibus Incentive Plan, as amended (incorporated by reference to Appendix C to the Company’s Definitive Proxy Statement on Schedule 14A filed on February 25, 2019).
10.5*	Form of Restricted Stock Agreement under the Company’s 2013 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.2 to the Company’s Current Report on Form 8-K filed on June 7, 2013).
10.6*	Form of Non-Qualified Stock Option Agreement under the Company’s 2013 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.3 to the Company’s Current Report on Form 8-K filed on June 7, 2013).
10.7*	Form of Restricted Stock Unit Agreement under the Company’s 2013 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.4 to the Company’s Current Report on Form 8-K filed on June 7, 2013).
10.8*	Form of Deferred Stock Unit Agreement For Non-Employee Directors under the Company’s 2013 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.2 to the Company’s Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2017).

- 10.9\* Form of Inducement Grant Restricted Stock Unit Agreement under the Company's 2013 Omnibus Incentive Plan (incorporated by reference to Exhibit 99.1 to the Company's Registration Statement on Form S-8 filed on November 23, 2020, SEC File No. 333-250866).
- 10.10\* Form of Inducement Grant Stock Option Agreement under the Company's 2013 Omnibus Incentive Plan (incorporated by reference to Exhibit 99.2 to the Company's Registration Statement on Form S-8 filed on November 23, 2020, SEC File No. 333-250866).
- 10.11 Purchase Agreement, dated December 4, 2020, between the Company and Lincoln Park Capital Fund, LLC (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on December 4, 2020).
- 10.12 Registration Rights Agreement, dated December 4, 2020, between the Company and Lincoln Park Capital Fund, LLC (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on December 4, 2020).
- 10.13 Master Service Agreement, dated February 4, 2021, between the Company and Samuel Engineering, Inc. (incorporated by reference to Exhibit 10.16 to the Company's Annual Report on Form 10-K filed on February 16, 2021).
- 10.14\* Executive Chairman Agreement, effective February 26, 2022, between the Company and Terence J. Cryan (incorporated by reference to Exhibit 10.18 to the Company's Current Report on Form 8-K/A filed on February 10, 2022).
- 10.15\* Employment Agreement, effective February 26, 2022, between the Company and John W. Lawrence (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on February 25, 2022).
- 10.16\* Employment Inducement Incentive Award Plan, adopted by the Board of Directors on May 9, 2022 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on May 13, 2022).
- 10.17\* Employment Agreement, effective August 26, 2022, between the Company and Steven M. Cates (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on June 23, 2022).
- 10.18\* Employment Agreement between, effective January 16, 2023, between the Company and Frank Bakker (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on January 16, 2023).
- 10.19 Controlled Equity Offering<sup>SM</sup> Sales Agreement, dated April 14, 2017, between the Company and Cantor Fitzgerald & Co. (incorporated by reference to Exhibit 1.1 to the Company's Current Report on Form 8-K filed on April 17, 2017).
- 10.20 Technical Summary Report for the Coosa Graphite Deposit effective November 30, 2022 (incorporated by reference to Exhibit 96.1 to the Company's Current Report on Form 8-K filed on December 6, 2022).
- 21.1 Subsidiaries of Registrant.
- 23.1 Consent of Independent Registered Public Accounting Firm.
- 23.2 Consent of Qualified Person – SLR International Corporation.

31.1	Certifications of Chief Executive Officer Pursuant to Rules 13a-14(a) or 15d-14(a) under the Securities Exchange Act of 1934, as amended.
31.2	Certifications of Chief Financial Officer Pursuant to Rules 13a-14(a) or 15d-14(a) under the Securities Exchange Act of 1934, as amended.
32.1	Certifications of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350.
32.2	Certifications of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350.
101.INS	Inline XBRL Instance Document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document.
101.CAL	Inline XBRL Taxonomy Calculation Linkbase Document.
101.LAB	Inline XBRL Taxonomy Label Linkbase Document.
101.PRE	Inline XBRL Taxonomy Presentation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

---

\* Indicates management contract or compensatory plan or arrangement.

## 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, thereunto duly authorized.

Date: March 6, 2023

WESTWATER RESOURCES, INC.

By: /s/ Frank Bakker

Frank Bakker

*President and Chief Executive Officer*

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

<u>Signature</u>	<u>Date</u>
<u>/s/ Frank Bakker</u> Frank Bakker <i>President and Chief Executive Officer and Director</i> <i>(Principal Executive Officer)</i>	March 6, 2023
<u>/s/ Steven M. Cates</u> Steven M. Cates <i>Chief Financial Officer and Senior Vice President –</i> <i>Finance</i> <i>(Principal Financial and Accounting Officer)</i>	March 6, 2023
<u>/s/ Terence J. Cryan</u> Terence J. Cryan <i>Executive Chairman and Chairman</i>	March 6, 2023
<u>/s/ Tracy D. Pagliara</u> Tracy D. Pagliara <i>Director</i>	March 6, 2023
<u>/s/ Karli S. Anderson</u> Karli S. Anderson <i>Director</i>	March 6, 2023
<u>/s/ Deborah A. Peacock</u> Deborah A. Peacock <i>Director</i>	March 6, 2023

[This Page Intentionally Left Blank]

[This Page Intentionally Left Blank]

[This Page Intentionally Left Blank]