

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

FORM 10-K/A
Amendment No. 1

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended May 31, 2023

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from and

Commission file number 001-31968

APPLIED DIGITAL CORPORATION

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of incorporation or organization)

95-4863690

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

3811 Turtle Creek Boulevard, Suite 2100

Dallas, Texas 75219

(Address of principal executive offices, including zip code)

214-427-1704

(Registrant's telephone number, including area code)

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

Title of each class
Common Stock, par value \$0.001 per share

Trading Symbol(s)
APLD

Name of each exchange on which registered
Nasdaq Global Select Market

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 and post such files). Yes No

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

Large accelerated filer	<input type="radio"/>	Accelerated filer	<input type="radio"/>
Non-accelerated filer	<input checked="" type="radio"/>	Smaller reporting company	<input checked="" type="radio"/>
		Emerging growth company	<input type="radio"/>

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 Act). Yes No

The aggregate market value of voting stock held by non-affiliates of the registrant as of November 30, 2022, based on the closing price of \$1.95 for shares of the registrant’s common stock as reported by the Nasdaq Global Select Market, was approximately \$137.8 million. Shares of common stock beneficially owned by each executive officer, director, and holder of more than 5% of our common stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of October 9, 2023, 106,300,245 shares of the registrant's common stock were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None.

Auditor Name:	Marcum LLP
Auditor Location:	New York, NY
Auditor ID:	688

Explanatory Note

Applied Digital Corporation ("Applied Digital" or the "Company") is filing this Amendment No. 1 on Form 10-K/A (the "Amendment") to its Annual Report on Form 10-K for the fiscal year ended May 31, 2023, originally filed on August 2, 2023 (the "Original Report") solely to include information about a former director in the director compensation contained in Part III, Item 11 and in Item 13. This Amendment amends and restates Part III, Item 11 and Part III, Item 13 of the Original Report and includes Part IV, Item 15 for purposes of filing Exhibits 10.33, 31.1 and 31.2.

Except as expressly noted above, this Amendment does not modify or update in any way disclosures made in the Original Report. Accordingly, this Amendment should be read in conjunction with the Original Report and with the Company's other filings made with the Securities and Exchange Commission ("SEC") subsequent to the filing of the Original Report.

Part III

Item 11. Executive Compensation

Compensation Overview

Overview

Our compensation programs are designed to:

- Attract, motivate, incentivize, and retain employees at the executive level who contribute to our long-term success;
- Provide compensation packages to our executives that are competitive, reward the achievement of our business objectives, and effectively align their interests with those of our stockholders; and
- Focus on long-term equity incentives that correlate with the growth of sustainable long-term value for our stockholders.

Our Compensation Committee is responsible for the executive compensation programs for our Named Executive Officers and reports to our Board of Directors on its discussions, decisions, and other actions. Our Chief Executive Officer makes recommendations for the respective executive officers that report to him to our Compensation Committee and typically attends Compensation Committee meetings. Our Chief Executive Officer makes such recommendations (other than with respect to himself) regarding base salary, and short-term and long-term compensation, including equity incentives, for our executive officers based on our results, an executive officer's individual contribution toward these results, the executive officer's role and performance of his or her duties, and his or her achievement of individual goals. Our Compensation Committee then reviews the recommendations and other data, including various compensation survey data and publicly available data of our peers, and makes decisions as to the target total direct compensation for each executive officer, including our Chief Executive Officer, as well as each individual compensation element. While our Chief Executive Officer typically attends meetings of the Compensation Committee, the Compensation Committee meets outside the presence of our Chief Executive Officer when discussing his compensation and when discussing certain other matters, as well.

Our Compensation Committee is authorized to retain the services of one or more executive compensation advisors, as it sees fit, in connection with the establishment of our executive compensation programs and related policies. In fiscal year ending May 31, 2023, the Compensation Committee retained Compensia Inc., a national compensation consulting firm with compensation expertise relating to technology and life science companies, to provide it with market information, analysis, and other advice relating to executive compensation on an ongoing basis. The Compensation Committee engaged Compensia, Inc. to, among other things, assist in developing an appropriate group of peer companies to help us determine the appropriate level of overall compensation for our executive officers, as well as to assess each separate element of compensation, with a goal of ensuring that the compensation we offer to our executive officers, individually as well as in the aggregate, is competitive and fair. We do not believe the retention of, and the work performed by, Compensia, Inc. creates any conflict of interest.

Compensation and Governance Practices and Policies

We endeavor to maintain strong governance standards in our policies and practices related to executive compensation. Below is a summary of our key executive compensation and corporate governance practices:

	What We Do		What We Don't Do
✓	Annually assess the risk-reward balance of our compensation programs in order to mitigate undue risks in our programs	✗	No pension plans or Supplemental Executive Retirement Plans
✓	Provide compensation mix that more heavily weights variable pay	✗	No hedging or pledging of our securities
✓	An independent compensation consultant advises the Compensation Committee	✗	No excise tax gross-ups upon a change of control

Peer Group

The Compensation Committee reviews market data of companies that we believe are comparable to us. With Compensia's assistance, the Compensation Committee developed a peer group for use when making its compensation decisions for the

fiscal year ending May 31, 2023, which consisted of publicly traded technology companies headquartered in the U.S. that generally had a market capitalization between 0.25x and 4.0x the Company's market capitalization. The Compensation Committee referred to compensation data from this peer group and broader survey data (for similarly-sized companies) when making base salary, cash bonus and equity award decisions for our executive officers for the fiscal year ending May 31, 2023. The following is a list of the public companies that composed our peer group for the fiscal year ending May 31, 2023:

Alkami Technology	CleanSpark	Paya
Backblaze	Couchbase	Riot Platforms
Bakkt Holdings	Fastly	Stronghold Digital Mining
Bit Digital	Greenidge Generation Holdings	Sumo Logic
Cantaloupe	IronNet	TeraWulf
Cipher Mining	Marathon Digital Holdings	Veritone

Base Salaries

The compensation of Named Executive Officers is generally determined and approved by the Compensation Committee of the Board of Directors. The base salaries of each of the Named Executive Officers for the fiscal years ending May 31, 2022 and 2023 were as follows:

Named Executive Officer	Position	Base Salary FY23	Base Salary FY24
Wes Cummins	CEO	\$300,000	\$600,000
David Rench	CFO	\$240,000	\$350,000
Michael Maniscalco	CTO	\$200,000	\$275,000

Annual Bonuses

We maintain an annual bonus program that rewards each of our Named Executive Officers for our performance against business objectives. Our Board of Directors establishes performance goals for this program each year and then evaluates performance against these established goals to determine the amount of each award. This program is based on performance over a fiscal year and pays out early in the following year, subject to the executive's continued service through the payment date. All awards under this program are subject to the discretion of the Compensation Committee and the Board of Directors. For the fiscal year ending May 31, 2023, the target annual bonuses for our Named Executive Officers were as follows:

Named Executive Officer	Position	Target Bonus (% of Salary)
Wes Cummins	CEO	100%
David Rench	CFO	100%
Michael Maniscalco	CTO	75%

Equity Compensation

During the fiscal year ended May 31, 2023, we granted restricted stock units ("RSUs") and performance stock units ("PSUs") to each of our Named Executive Officers. We feel this equity mix effectively aligns Named Executive Officer compensation with shareholder returns while also achieving retention objectives. During the fiscal year, grants to our Named Executive Officers were as follows:

Named Executive Officer	Position	# of Restricted Stock Units	# of Performance-Based Restricted Stock Units (at target)
Wes Cummins	CEO	1,100,000	1,400,000
David Rench	CFO	460,000	490,000
Michael Maniscalco	CTO	216,000	175,000

The RSUs are time-based and provide for vesting in tranches over three years. The PSUs are performance-based and provide for earning between 50% -250% of the employee's target units if certain financial targets are met during the measurement period, which consists of two fiscal years, and for vesting of any earned units on the third anniversary of grant.

Employment Agreements with Named Executive Officers

The Company currently has employment agreements with Mr. Cummins, and Mr. Rench. The employment agreements include non-compete and non-solicitation provisions. See “Employment Agreements and Arrangements Between the Company and Named Executives” of this Item 11 for a description of the material terms of Mr. Cummins’s and Mr Rench’s employment agreements. The Company does not currently have an employment agreement with Mr. Maniscalco.

Welfare and other Benefits

See “Welfare and other benefits” of this Item 11 for a description of certain benefits provided to our Named Executive Officers. The Company maintains a broad-based 401(k) plan for its employees including its Named Executive Officers. Our Named Executive Officers did not participate in, or otherwise receive any benefits under, any pension or retirement plan sponsored by us during the fiscal year ending May 31, 2023. Our Named Executive Officers did not participate in, or earn any benefits under, a nonqualified deferred compensation plan sponsored by us during the fiscal year ending May 31, 2023.

Potential Payments upon Termination or Change in Control

Except as provided below, the Named Executive Officers’ employment agreements do not provide for any special payments in the event of a termination of employment or a Change in Control of the Company while the agreement is in effect.

Under the terms of each Named Executive Officer’s restricted stock award (each, an “Award”), if the Named Executive Officer’s employment terminates before the Award is vested and the termination is on account of the Named Executive Officer’s death, disability or termination by the Company without Cause (as defined in the Award), the Named Executive Officer will vest in a portion of the unvested Award based on the number of full months of employment that the Named Executive Officer has completed as of the termination date, and since the grant date of the Award. Under the terms of each Named Executive Officer’s PSU Award, the portion of the Target Award that will be earned and vested is determined based on both the months of employment completed as of the termination date and on achievement of certain performance factors defined in the Award during the period prior to the termination of employment.

In addition, if there is a change in control of the Company as defined in the Award (“Change in Control”) of the Company while the Award remains unvested, the Award will be treated in accordance with one of the following as determined by the Compensation Committee: (1) the Award may be replaced with a new award that constitutes a “Replacement Award” under the terms of the Award and relevant tax rules; (2) if the Company’s stock continues to be publicly traded on the Nasdaq Global Select Market (or another established securities market) after the Change in Control, then the Award will continue in place and be treated as a Replacement Award; or (3) if, following the Change in Control, the Company’s stock is no longer publicly traded on The Nasdaq Global Select Market (or another established securities market), the unvested portion of the Award shall become vested immediately prior to the consummation of the Change in Control. Notwithstanding any of the foregoing, the Committee may determine that any unvested portion of the Award will be cancelled and terminated for consideration instead. Notwithstanding the foregoing, for PSU Awards, if the Change in Control occurs prior to the date that the Committee determines the number of units earned under the Award, the Named Executive Officer will vest in a portion of the Award based on the months of employment completed as of the Change in Control, applied to the higher of 100% of the target Award and the amount earned based on actual performance as of the end of the last full calendar quarter preceding the Change in Control date.

If payment of an Award in connection with a Change in Control would result in liability for an excise tax under Section 4999 of the Code for “excess parachute payments” as defined in Section 280G of the Code, the amount of the Award may be reduced to avoid imposition of the excise tax, if such reduction results in a greater post-tax benefit to the Named Executive Officer as compared to payment of the full amount of the Award and imposition of the excise tax.

Executive Compensation

We are a “smaller reporting company” under applicable SEC rules and are providing disclosure regarding our executive compensation arrangements pursuant to the rules applicable to emerging growth companies, which means that we are not required to provide a compensation discussion and analysis and certain other disclosures regarding our executive compensation. The following discussion relates to the compensation of each of the Company’s Chief Executive Officer and its two other most highly compensated individuals who were serving as executive officers at the end of the fiscal year ended May 31, 2023, for services rendered in all capacities during such year (the “Named Executive Officers”), consisting of Wes

Cummins, our Chief Executive Officer, Secretary, Treasurer, Chairman of the Board, David Rench, our Chief Financial Officer, and Michael Maniscalco, our Chief Technology Officer.

Summary Compensation Table

Name and Principal Position(s)	Year	Salary (\$) ⁽¹⁾	Bonus (\$)	Non-Equity Incentive Plan Compensation (\$) ⁽²⁾	All Other Compensation (\$) ⁽³⁾	Total (\$)
Wes Cummins	2023	\$312,500	\$150,000	—	\$5,492,078	\$5,954,578
Chief Executive Officer, President, Secretary and Treasurer	2022	\$279,167	\$300,000	\$4,020,000	—	\$4,599,167
	2021	\$52,083	—	—	—	\$52,083
David Rench	2023	\$272,292	\$339,375	—	\$2,098,578	\$2,710,245
Chief Financial Officer	2022	\$254,707	\$180,000	\$1,339,987	—	\$1,774,694
	2021	\$41,667	\$20,000	—	—	\$61,667
Michael Maniscalco	2023	\$200,000	\$92,500	—	\$854,941	\$1,147,441
Chief Technology Officer ⁽⁴⁾	2022	\$61,667	—	—	—	\$61,667

⁽¹⁾ 2021 amounts represent compensation for partial year service from March 2021 through May 31, 2021.

⁽²⁾ Consists of value of restricted stock awards made outside of the 2022 Incentive Plan.

⁽³⁾ Consists of restricted stock units granted through the 2022 Incentive Plan and health care premiums paid by the Company.

⁽⁴⁾ Mr. Maniscalco joined the Company in September 2021 as EVP, Technology, and became Chief Technology Officer on July 5, 2023.

Employment Agreements

Cummins Agreement

Wes Cummins is our Chief Executive Officer. On January 4, 2022, we and Mr. Cummins entered into an Employment Agreement, effective as of November 1, 2021 (the “Cummins Employment Agreement”).

Pursuant to the Cummins Employment Agreement, Mr. Cummins receives a base salary of \$300,000 per annum, subject to annual review, and shall also be eligible for an annual bonus of up to 100% of his base salary, to be determined at our sole discretion. The term of the Cummins Employment Agreement ends on October 31, 2024, with automatic one (1) year extensions unless notice not to renew is given by either party at least 60 days prior to the relevant end date.

The Cummins Employment Agreement grants Mr. Cummins an incentive award of 500,000 restricted shares of our common stock (“Restricted Stock”).

The Restricted Stock will vest in accordance with the following schedule (pending an effective registration statement covering the resale of shares of common stock comprising the stock award, which has yet to occur at the time of this filing):

	Number of Shares	Vesting Date*
250,000		4/1/2022
62,500		7/1/2022
62,500		10/1/2022
62,500		1/1/2023
62,500		4/1/2023

* Shares will vest on such date or the date, if later, on which the SEC declares effective a registration statement covering the resale of the shares of restricted stock (such date, the "Later Date").

The Cummins Employment Agreement requires Mr. Cummins to devote his full-time efforts to his employment duties and obligations, and provides that Mr. Cummins will be entitled to participate in all benefit plans provided to our employees in accordance with our applicable plan, policy or practices, as well as in any long-term incentive program established by us. It also provides for unlimited annual paid vacation, and reimbursement of reasonable business expenses, and provides that either party may terminate the employment arrangement pursuant to the notice requirements set forth in the Cummins Employment Agreement.

The Cummins Employment Agreement contains restrictive covenants prohibiting Mr. Cummins from disclosing our confidential information at any time, from competing with us in any geographic area where we do business during his employment, and from soliciting our employees, contractors or customers, during his employment and for one year thereafter.

Rench Agreement

David Rench is our Chief Financial Officer. On January 4, 2022, we and Mr. Rench entered into an Employment Agreement, effective as of November 1, 2021 (the "Rench Employment Agreement"). Pursuant to the Rench Employment Agreement, Mr. Rench receives a base salary of \$240,000 per annum, subject to annual review, and shall also be eligible for an annual bonus of up to 75% of his base salary, to be determined at our sole discretion. The term of the Rench Employment Agreement ends on October 31, 2024, with automatic one (1) year extensions unless notice not to renew is given by either party at least 60 days prior to the relevant end date.

The Rench Employment Agreement grants Mr. Rench an incentive award of 166,666 shares of Restricted Stock. The Restricted Stock will vest in accordance with the following schedule (pending an effective registration statement covering the resale of shares of common stock comprising the stock award, which has yet to occur at the time of this filing):

	Number of Shares	Vesting Date*
83,333		4/1/2022
20,833		7/1/2022
20,833		10/1/2022
20,833		1/1/2023
20,834		4/1/2023

* Shares will vest on such date or the Later Date, if later.

The Rench Employment Agreement requires Mr. Rench to devote forty (40) hours per week to his employment duties and obligations, and provides that Mr. Rench will be entitled to participate in all benefit plans provided to our employees in accordance with our applicable plan, policy or practices, as well as in any long-term incentive program established by us. It also provides for unlimited annual paid vacation, and reimbursement of reasonable business expenses, and provides that either party may terminate the employment arrangement pursuant to the notice requirements set forth in the Rench Employment Agreement.

The Rench Employment Agreement contains restrictive covenants prohibiting Mr. Rench from disclosing our confidential information at any time, from competing with us in any geographic area where we do business during his employment, and from soliciting our employees, contractors or customers, during his employment and for one year thereafter.

On July 18, 2022, the Compensation Committee increased Mr. Rench's annual base salary to \$275,000, effective August 1, 2022.

Maniscalco

The Company does not currently have an employment agreement with Mr. Maniscalco. Mr. Maniscalco receives a base salary of \$275,000 per annum, subject to annual review, and is eligible for an annual bonus of up to 75% of his base salary, to be determined at our sole discretion. Mr. Maniscalco is entitled to participate in all benefit plans provided to our employees in accordance with our applicable plan, policy or practices, as well as in any long-term incentive program established by us.

Severance Agreements

None of our employees have severance agreements.

OUTSTANDING EQUITY AWARDS AT MAY 31, 2023

Name	STOCK AWARDS	
	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)
Wes Cummins	416,667 ⁽¹⁾	3,487,503
	600,000 ⁽²⁾	5,022,000
	700,000 ⁽³⁾	5,859,000
David Rench	208,334 ⁽⁴⁾	1,743,756
	210,000 ⁽⁵⁾	1,757,700
	245,000 ⁽⁶⁾	2,050,650
Michael Maniscalco	125,000 ⁽⁷⁾	1,046,250
	75,000 ⁽⁸⁾	627,750
	87,500 ⁽⁹⁾	732,375

⁽¹⁾ Consists of restricted stock units that vest as follows: 83,333 on each of August 5, 2023, August 5, 2024 and February 5, 2025 and 83,334 on each of February 5, 2024 and August 5, 2025.

⁽²⁾ Consists of restricted stock units that vest as follows: 200,000 on April 4, 2024 and 100,000 on each of October 4, 2024, April 4, 2025, October 4, 2025 and April 4, 2026.

⁽³⁾ Consists of performance stock units, at threshold, that may be earned during the two fiscal years beginning in 2023 and 2024 if certain financial performance criteria are met and will vest on April 4, 2026.

⁽⁴⁾ Consists of restricted stock units that vest as follows: 41,667 on each of August 5, 2023, February 5, 2024, February 5, 2025 and August 5, 2025 and 41,666 on August 5, 2024.

⁽⁵⁾ Consists of restricted stock units that vest as follows: 70,000 on April 4, 2024 and 35,000 on each of October 4, 2024, April 4, 2025, October 4, 2025 and April 4, 2026.

⁽⁶⁾ Consists of performance stock units, at threshold, that may be earned during the two fiscal years beginning in 2023 and 2024 if certain financial performance criteria are met and will vest on April 4, 2026.

⁽⁷⁾ Consists of restricted stock units that vest as follows: 30,556 on August 5, 2023, and 23,611 on each of February 5, 2024, August 5, 2024, February 5, 2025 and August 5, 2025.

⁽⁸⁾ Consists of restricted stock units that vest as follows: 25,000 on April 4, 2024 and 12,500 on each of October 4, 2024, April 4, 2025, October 4, 2025 and April 4, 2026.

⁽⁹⁾ Consists of performance stock units, at threshold, that may be earned during the two fiscal years beginning in 2023 and 2024 if certain financial performance criteria are met and will vest on April 4, 2026.

Equity Compensation Plans

The following table sets forth certain information, as of May 31, 2023, regarding the shares of the Company's common stock authorized for issuance under the Company's equity compensation plans.

Plan	Number of shares of Common Stock issuable upon exercise of outstanding options, warrants or rights ⁽¹⁾	Weighted average of exercise price of outstanding	Number of shares of Common Stock remaining available for future issuance
2022 Incentive Plan	—	\$0.00	5,085,720
2022 Non-Employee Director Stock Plan	—	\$0.00	1,359,229
Compensation plans not approved by shareholders ⁽¹⁾	895,839	\$0.00	—

⁽¹⁾ Reflects restricted stock units which were not granted under the 2022 Incentive Plan or 2022 Non-Employee Director Stock Plan.

Employee Benefit Plans

On October 9, 2021, our Board approved two equity incentive plans, which our stockholders approved on January 20, 2022. The two plans consist of the 2021 Incentive Plan (the "Incentive Plan"), which provides for grants of various equity awards to our employees and consultants, and the 2021 Non-Employee Director Stock Plan (the "Director Plan" and, together with the Incentive Plan, the "Plans"), which provides for grants of restricted stock to non-employee directors and for deferral of cash and stock compensation if such deferral provisions are activated at a future date.

The Incentive Plan

The following is a summary of the material features of the Incentive Plan, qualified in its entirety by reference to the Incentive Plan.

Administration

The Compensation Committee administers the Incentive Plan. The Compensation Committee has full and exclusive discretionary power to interpret the terms and the intent of the Incentive Plan and any award agreement or other agreement or document ancillary to or in connection with the Incentive Plan, to select eligible employees and third-party service providers to receive awards ("Participants"), to determine eligibility for awards and to adopt such rules, regulations, forms, instruments, and guidelines for administering the Incentive Plan as it may deem necessary or proper. Such authority shall include, but not be limited to, selecting award recipients, establishing all award terms and conditions, including the terms and conditions set forth in award agreements, granting awards as an alternative to or as the form of payment for grants or rights earned or due under compensation plans, service contracts or other of our arrangements, construing any ambiguous provision of the Incentive Plan or any award agreement, and, subject to stockholder or Participant approvals as may be required, adopting modifications and amendments to the Incentive Plan or any award agreement. All actions taken and all interpretations and determinations made by the Compensation Committee shall be final and binding upon Participants, us, and all other interested individuals.

The Compensation Committee may delegate its administrative duties or powers to one or more of its members or to one or more of our officers, our affiliates or subsidiaries, or to one or more agents or advisors. However, the authority to grant awards to individuals who are subject to Section 16 of the Exchange Act, cannot be delegated to anyone who is not a member of the Compensation Committee. As used in this summary, the term "Incentive Plan Administrator" means the Compensation Committee and any delegate, as appropriate.

Eligibility

Any employee of, and any third-party service provider to, us, an affiliate or a subsidiary is eligible to participate in the Incentive Plan if selected by the Incentive Plan Administrator. We are not able to estimate the number of individuals that the Incentive Plan Administrator will select to participate in the Incentive Plan or the type or size of awards that the Incentive Plan Administrator will approve. Therefore, the benefits to be allocated to any individual or to various groups of individuals are not presently determinable.

Awards

Under the Incentive Plan, if approved by stockholders, we will be able to grant nonqualified stock options, incentive stock options, stock appreciation rights, restricted stock, restricted stock units, performance shares, performance units, cash-based awards and other stock-based awards.

Options. Options granted under the Incentive Plan may be incentive stock options (“ISOs”) or nonqualified stock options. Options entitle the Participant to purchase a specified number of shares of common stock from us at a specified option price, subject to applicable vesting conditions and such other provisions as the Incentive Plan Administrator may determine consistent with the Incentive Plan, including, without limitation, restrictions on transferability of the underlying shares. The per-share option price will be fixed by the Incentive Plan Administrator at the time the option is granted, but cannot be less than the per-share fair market value of the underlying common stock on the date of grant (or, with respect to ISOs, in the case of a holder of more than 10 percent of outstanding voting securities, 110 percent of such per share fair market value). The option price may be paid, in the Incentive Plan Administrator’s discretion, in cash or its equivalent, with shares of common stock, by a cashless, broker-assisted exercise, or a combination thereof, or any other method accepted by the Compensation Committee.

The minimum vesting period for an option is generally one year. The maximum period in which a vested option may be exercised will be fixed by the Incentive Plan Administrator at the time the option is granted but cannot exceed 10 years (five years for ISOs granted to a holder of more than 10 percent of our outstanding voting securities). The Award Agreement will set forth the extent to which a Participant may exercise the option following termination of employment. No employee may be granted ISOs that are first exercisable in a calendar year for common stock having an aggregate fair market value (determined as of the date the option is granted) exceeding \$100,000.

SARs. A stock appreciation right (“SAR”) entitles the Participant to receive an amount upon exercise equal to the excess of the fair market value of one share of common stock on the exercise date over the grant price of the SAR. SARs shall be subject to applicable vesting conditions and such other provisions as the Incentive Plan Administrator may determine consistent with the Incentive Plan, including, without limitation, mandatory holding periods for any shares received upon exercise. The grant price per SAR shall be determined by the Incentive Plan Administrator, but cannot be less than the fair market value of one share of common stock on the grant date.

The minimum vesting period for a SAR is generally one year. The maximum period in which a vested SAR may be exercised will be fixed by the Incentive Plan Administrator at the time the SAR is granted, but generally cannot exceed 10 years. The Award Agreement shall set forth the extent to which a Participant may exercise the SAR following termination of employment. The amount payable upon the exercise of an SAR may, in the Incentive Plan Administrator’s discretion, be settled in cash, common stock, or a combination thereof, or any other manner approved by the Incentive Plan Administrator.

Restricted Stock and Restricted Stock Units. Restricted stock is common stock issued to a Participant subject to applicable vesting and other restrictions. Restricted stock units are similar to restricted stock except that no shares of common stock are actually issued to the Participant unless and until the restrictions on the award lapse. An award of restricted stock or restricted stock units will be forfeitable, or otherwise restricted, until conditions established at the time of the grant are satisfied. These conditions may include, for example, a requirement that the Participant complete a specified period of service or the attainment of certain performance objectives. Any restrictions imposed on an award of restricted stock or restricted stock units will be prescribed by the Incentive Plan Administrator.

The minimum vesting period for restricted stock and restricted stock units is generally one year. The Award Agreement shall set forth the extent to which a Participant may retain restricted stock or restricted stock units following termination of employment. Participants may be granted full voting rights with respect to restricted stock during the applicable restriction

period, but will have no voting rights with respect to restricted stock units until common stock is issued in settlement thereof. Restricted stock will become freely transferable by the Participant after all conditions and restrictions have been satisfied. Vested restricted stock units may, in the Incentive Plan Administrator's discretion, be settled in cash, common stock, or a combination of cash and common stock or any other manner approved by the Incentive Plan Administrator.

Performance Shares and Performance Units. A performance share award entitles a Participant to receive a payment equal to the fair market value of a specific number of shares of common stock, subject to applicable performance and vesting conditions. A performance unit award is similar to a performance share award except that a performance unit award is not necessarily tied to the value of common stock. The Incentive Plan Administrator will prescribe, as set forth in an award agreement, the performance conditions that must be satisfied during the applicable performance period for an award of performance shares or performance units to be earned. The Incentive Plan Administrator may also impose time-based vesting conditions on the payment of earned performance shares or performance units.

The minimum performance period or vesting period for performance shares and performance units is generally one year. The award agreement shall set forth the extent to which a Participant may retain performance units and performance shares following termination of employment. To the extent that performance units or performance shares are earned and vested, the obligation may be settled in cash, common stock or a combination of cash and common stock. If the award is settled in shares of common stock, the shares may be subject to additional restrictions deemed appropriate by the Incentive Plan Administrator.

Cash-Based Awards and Other Stock-Based Awards. The Incentive Plan also allows the Incentive Plan Administrator to make cash-based awards and other stock-based awards to Participants on such terms and conditions as the Incentive Plan Administrator prescribes, including without limitation, time-based and performance-based vesting conditions. The minimum vesting period for other stock-based awards is generally one year. The award agreement shall set forth the extent to which a Participant may retain cash-based and other stock and equity-based awards following termination of employment. To the extent that any cash-based and other stock and equity-based awards are granted, they may, in the Incentive Plan Administrator's discretion, be settled in cash or common stock.

Dividend Equivalents

Participants may be granted dividend equivalents based on the dividends declared on shares that are subject to any award during the period between the grant date and the date the Award is exercised, vests or expires. The payment of dividends and dividend equivalents prior to an award becoming vested is prohibited, and the Incentive Plan Administrator shall determine the extent to which dividends and dividend equivalents may accrue during the vesting period.

Minimum Vesting of Stock-Based Awards

Awards granted under the Incentive Plan are generally subject to a minimum vesting period of at least one year. Awards may be subject to cliff-vesting or graded-vesting conditions, with graded vesting starting no earlier than one year after the grant date. The Incentive Plan Administrator may provide for shorter vesting periods in an award agreement for no more than five percent of the maximum number of shares authorized for issuance under the Incentive Plan.

Transferability

In general, awards available under the Incentive Plan will be nontransferable except by will or the laws of descent and distribution.

Performance Objectives

The Compensation Committee shall have full discretionary authority to select performance measures and related performance goals upon which payment or vesting of an award depends. Performance measures may relate to financial metrics, non-financial metrics, GAAP and non-GAAP metrics, business and individual objectives or any other performance metrics that the Compensation Committee deems appropriate.

The Compensation Committee may provide in any award that any evaluation of performance may include or exclude any of the following events that occurs during a performance period: (a) asset write-downs, (b) litigation or claim judgments or settlements, (c) the effect of changes in tax laws, accounting principles, or other laws or provisions affecting reported results,

(d) any reorganization and restructuring programs, (e) extraordinary nonrecurring items as described in management's discussion and analysis of financial condition and results of operations appearing in the our annual report to stockholders for the applicable year, (f) acquisitions or divestitures, and (g) foreign exchange gains and losses.

The Compensation Committee shall retain the discretion to adjust performance-based awards upward or downward, either on a formula or discretionary basis or any combination, as the Committee determines.

Change in Control

Unless otherwise provided in an award agreement or otherwise determined by the Compensation Committee, upon a Change in Control the following shall occur:

- a. For awards other than performance awards, a Replacement Award (that is, an award with a value and terms that are at least as favorable as the outstanding award) may be issued;
- b. For awards other than performance awards, if a Replacement Award is not issued and our common stock ceases to be publicly traded after the Change in Control, such awards shall be immediately vested and exercisable upon such Change in Control;
- c. For unearned performance awards, the award shall be (i) earned on a pro-rata basis at the higher of actual or target performance and (ii) measured as of the end of the calendar quarter before the effective date of the Change in Control, or, if the award is stock-price based, as of the effective date of the Change in Control;
- d. For earned but unvested performance awards, the award shall be immediately vested and payable as of the effective date of the Change in Control;
- e. For awards other than performance awards, if our common stock continues to be publicly traded after a Change in Control, such awards shall continue under their applicable terms, unless otherwise determined by the Compensation Committee.

Notwithstanding the forgoing, in the case of awards other than performance awards, the Compensation Committee may cancel such awards, and the award holders shall receive shares or cash equal to the difference between the amount stockholders receive for their shares pursuant to the Change in Control event and the purchase price per share, if any, under the award.

Except as may be provided in a severance compensation agreement between us and the Participant, if, in connection with a Change in Control, a Participant's payment of any awards will cause the Participant to be liable for federal excise tax levied on certain "excess parachute payments," then either (i) all payments otherwise due or (ii) the reduced payment amount to avoid an excess parachute payment, whichever will provide the Participant with the greater after-tax economic benefit taking into account any applicable excise tax, shall be paid to the Participant. In no event will any Participant be entitled to receive any kind of gross-up payment or reimbursement for any excise taxes payable in connection with Change in Control payments.

Share Authorization

The maximum aggregate number of shares of common stock that may be issued under the Incentive Plan was initially 13,333,333 shares. On January 1st of each year, for a period of not more than nine years, beginning on January 1, 2023 and ending on (and including) January 1, 2031, the number of shares authorized under the Incentive Plan automatically increases in an amount equal to 3% of the total number of shares of common stock outstanding on December 31st of the preceding calendar year. On January 1, 2023, 2,834,229 shares were added to the Incentive Plan, resulting in a new number of shares authorized under the Incentive Plan of 16,167,562, all of which can be issued pursuant to the exercise of incentive stock options.

In connection with any corporate event or transaction (including, but not limited to, a change in our shares or our capitalization) such as a merger, consolidation, reorganization, recapitalization, separation, partial or complete liquidation, stock dividend, stock split, reverse stock split, split up, spin off, or other distribution of our stock or property, combination of shares, exchange of shares, dividend in kind, or other like change in capital structure, number of outstanding shares or distribution (other than normal cash dividends) to our stockholders, or any similar corporate event or transaction, the Compensation Committee, in its sole discretion, in order to prevent dilution or enlargement of Participants' rights under the Incentive Plan, shall substitute or adjust, as applicable, the number and kind of shares that may be issued under the Incentive

Plan or under particular forms of awards, the number and kind of shares subject to outstanding awards, the option price or grant price applicable to outstanding awards, and other value determinations applicable to outstanding awards. The Compensation Committee may also make appropriate adjustments in the terms of any awards under the Incentive Plan to reflect or relate to such changes or distributions and to modify any other terms of outstanding awards, including modifications of performance goals and changes in the length of performance periods.

If an award entitles the holder to receive or purchase shares of common stock, the shares covered by such award or to which the award relates shall be counted against the aggregate number of shares available for awards under the Incentive Plan as follows:

- a. With respect to any awards, the number of shares available for awards shall be reduced by one share for each share covered by such award or to which the award relates; and
- b. Awards that do not entitle the holder to receive or purchase shares and awards that are settled in cash shall not be counted against the aggregate number of shares available for awards under the Incentive Plan.

In addition, any shares related to awards which terminate by expiration, forfeiture, cancellation, or otherwise without issuance of shares shall be available again for grant under the Incentive Plan.

In no event, however, will the following shares again become available for awards or increase the number of shares available for grant under the Incentive Plan:

- (i) shares tendered by the Participant in payment of the exercise price of an option;
- (ii) shares withheld from exercised awards for tax withholding purposes;
- (iii) shares subject to a SAR that are not issued in connection with the settlement of that SAR; and
- (iv) shares repurchased by us with proceeds received from the exercise of an option.

Amendment and Termination

No award may be granted under the Incentive Plan after 10 years from the date the Incentive Plan was approved by stockholders. The Compensation Committee may, at any time and from time to time, alter, amend, modify, suspend, or terminate the Incentive Plan and any award agreement in whole or in part; provided, however, that,

(i) without the prior approval of our stockholders, options or SARs issued under the Incentive Plan will not be repriced, repurchased (including a cash buyout), replaced, or re-granted through cancellation, or by lowering the option price of a previously granted option or the grant price of a previously granted SAR (except in connection with a permitted adjustment in authorized shares described above), and

(ii) any amendment of the Incentive Plan must comply with the rules of the primary stock exchange or trading market, if any, that our common stock is publicly traded on (the "Trading Market"), and (iii) no material amendment of the Incentive Plan shall be made without stockholder approval if stockholder approval is required by law, regulation, or Trading Market rule.

The Compensation Committee may make adjustments in the terms and conditions of, and the criteria included in, awards in recognition of unusual or nonrecurring events affecting us or our financial statements or of changes in applicable laws, regulations, or accounting principles, whenever the Compensation Committee determines that such adjustments are appropriate in order to prevent unintended dilution or enlargement of the benefits or potential benefits intended to be made available under the Incentive Plan.

Notwithstanding the foregoing, no termination, amendment, suspension, or modification of the Incentive Plan or an award agreement shall adversely affect in any material way any award previously granted under the Incentive Plan, without the written consent of the Participant holding such award.

Federal Income Tax Consequences

We have been advised by counsel regarding the federal income tax consequences of the Incentive Plan. No income is recognized by a Participant at the time an option or SAR is granted. If the option is an ISO, no income will be recognized upon the Participant's exercise of the option (except that the alternative minimum tax may apply). Income is recognized by a Participant when they dispose of shares acquired under an ISO. The exercise of a nonqualified stock option or SAR generally

is a taxable event that requires the Participant to recognize, as ordinary income, the difference between the shares' fair market value and the option price. If a Participant disposes of shares acquired under an ISO before two years after the ISO was granted, or before one year after the ISO was exercised, this is a "disqualifying disposition" and any gain recognized by the Participant upon the disposition of such shares will be taxed as ordinary income to the extent such gain does not exceed the fair market value of such shares on the date the ISO was exercised over the option price.

Income is recognized on account of the award of restricted stock and performance shares when the shares first become transferable or are no longer subject to a substantial risk of forfeiture unless the Participant makes an election to recognize income on the grant date under Section 83(b) of the Code. At the applicable time, the Participant recognizes income equal to the fair market value of the common stock.

With respect to awards of performance units, restricted stock units, and cash-based awards, a Participant will recognize ordinary income equal to any cash that is paid and the fair market value of common stock that is received in settlement of an award.

Except in the case of a disqualifying distribution of shares acquired upon the exercise of an ISO, as described above, upon the sale or other disposition of shares acquired by a Participant under the Incentive Plan, the Participant will recognize short-term or long-term capital gain or loss, depending on whether such shares have been held for more than one year at such time. Such capital gain or loss will equal the difference between the amount realized on the sale of the shares and the Participant's tax basis in such shares (generally, the amount previously included in income by the Participant in connection with the grant or vesting of the shares or the exercise of the related option).

We generally will be entitled to claim a federal income tax deduction on account of the exercise of a nonqualified stock option or SAR or upon the taxability to the recipient of restricted stock and performance shares, the settlement of a performance unit or restricted stock unit, and the payment of a cash-based or other stock-based award (subject to tax limitations on our deductions in any year that certain remuneration paid to certain executives exceeds \$1 million). The amount of the deduction is equal to the ordinary income recognized by the Participant. We will not be entitled to a federal income tax deduction on account of the grant or the exercise of an ISO unless the Participant has made a "disqualifying disposition" of the shares acquired on exercise of the ISO, in which case we will be entitled to a deduction at the same time and in the same amount as the Participant's recognition of ordinary income. Except in the case of a disqualifying disposition of shares acquired on exercise of an ISO, a Participant's sale or other disposition of shares acquired under the Incentive Plan should have no tax consequences for us.

The Director Plan

The following is a summary of the material features of the Director Plan, qualified in its entirety by reference to the Director Plan.

Awards and Deferrals

The Director Plan permits (1) the grant of shares of common stock to each of our non-employee directors and (2) if and when authorized by the Board, the deferral by the directors of some or all of their directors' cash retainer fee and stock compensation. The Director Plan will have a term of ten years from the date on which it is approved by stockholders.

Administration

Our Chief Financial Officer ("Director Plan Administrator") will administer the Director Plan. The Director Plan Administrator will interpret all provisions of the Director Plan, establish administrative regulations to further the purposes of the Director Plan and take any other action necessary for the proper operation of the Director Plan. All decisions and acts of the Director Plan Administrator shall be final and binding upon all participants in the Director Plan.

Eligibility

Each of our non-employee director is eligible to be a participant in the Director Plan (a "Director") until they no longer serve as a non-employee director. The Board currently includes six (6) non-employee directors.

Share Authorization

The maximum aggregate number of shares of common stock that may be issued under the Director Plan is 1,833,333 shares. The aggregate fair market value (determined as of the grant date) of shares that may be issued as stock compensation to a Director in any year shall not exceed \$750,000, provided, however, that with respect to new directors joining the Board, the maximum amount shall be \$1,000,000 for the first year, or portion thereof, of service.

In connection with the occurrence of any corporate event or transaction (including, but not limited to, a change in our shares or our capitalization) such as a merger, consolidation, reorganization, recapitalization, separation, partial or complete liquidation, stock dividend, stock split, reverse stock split, split up, spin-off, or other distribution of our stock or property, combination of shares, exchange of shares, dividend in kind, or other like change in capital structure, number of outstanding shares or distribution (other than normal cash dividends) to our stockholders, or any similar corporate event or transaction, the Director Plan Administrator, in its sole discretion, in order to prevent dilution or enlargement of the Directors' rights under the Director Plan, shall substitute or adjust, as applicable, the number and kind of shares that may be issued under the Director Plan, the number and kind of shares subject to outstanding grants, the annual grant limits, and other value determinations applicable to outstanding grants. The Director Plan Administrator may also make appropriate adjustments in the terms of any grants under the Director Plan to reflect or relate to such changes or distributions and to modify any other terms of outstanding grants.

Grant of Shares

As of the first day of each compensation year (as defined in the Director Plan), we will, unless a different formula is selected in accordance with the last sentence of this paragraph, grant each Director a number of shares of our common stock for such year determined by (i) dividing the amount of each Director's cash retainer for the compensation year by the fair market value of the shares on the first day of the compensation year, and (ii) rounding such number of shares up to the nearest whole share. We may revise the foregoing formula for any year without stockholder approval, subject to the Plan's overall share limits. First Amendment to the Director Plan, adopted as of April 4, 2023 and effective as of November 10, 2022, adjusted the definition of the compensation year and changed the annual amount of shares of common stock to be awarded to the number of shares having a fair market value as of the date of grant of \$160,000, rounded up to the nearest whole share.

Vesting of Shares

Shares granted under the Director Plan will vest on the first anniversary of the grant date unless otherwise determined by the Director Plan Administrator. Unvested shares will be forfeited when a Director's service as a director terminates, except that (i) a Director's unvested shares shall become fully vested upon the Director's death or disability and (ii) a Director who elects not to stand for reelection as a Director for the following compensation year shall vest in a pro-rata portion of their outstanding grants at the annual meeting at which their service as a Director terminates.

Deferral Elections

While the deferral provision is not initially effective, at any point after the Director Plan is approved, the Board may determine that non-employee directors may defer all or part of their cash compensation (in 10% increments) into a deferred cash account, and they may defer all or part of their stock compensation (in 10% increments) into a deferred stock account. Prior to the Board's taking action to permit deferrals under the Director Plan, no cash or stock deferrals shall be permitted. Deferred cash and stock accounts, once permitted and created, would be unfunded and maintained for record keeping purposes only, and directors wishing to defer amounts under the 2021 Directors' Plan would be required to make their deferral elections by December 31st (or such earlier date as the Director Plan Administrator may designate) of the calendar year preceding the calendar year in which such compensation is earned or granted or, if later, within 30 days after first becoming eligible to make deferrals under the Director Plan.

Distributions of Deferrals

Distributions of deferrals under the Director Plan, once permitted, would generally be paid in a lump sum unless the Director specifies installment payments over a period up to 10 years. Deferred cash account amounts would be paid in cash, and deferred stock would be paid in whole shares of common stock. Unless otherwise elected by the Director, distributions would begin on February 15th of the year following the year in which the Director ceases to be a non-employee director. A Director could also elect to have their distributions commence on (a) the February 15th of the year following the later of the year in which they cease to be a non-employee director and the year in which they attain a specified age, or (b) the February 15th of

the year following the year in which they attain a specified age, without regard to whether they are still a non-employee director.

Cash deferral accounts would be credited with earnings and losses on such basis as determined by the Board or its designee, and stock deferral accounts would be credited with additional shares equal to the value of any dividends paid during the deferral period on deferred stock. Under limited hardship circumstances, Directors could withdraw some or all of the amounts of deferred cash and stock in their deferral accounts.

Change in Control

Unless otherwise determined by the Director Plan Administrator in connection with a grant, a Change in Control shall have the following effects on outstanding awards.

- a. On a Change in Control in which a Director receives a replacement award with a value and terms that are at least as favorable as the Director's outstanding awards (a "Replacement Award"), the Director's outstanding awards shall remain outstanding subject to the terms of the Replacement Award.
- b. On a Change in Control in which our shares cease to be publicly traded, the Director's outstanding awards shall become immediately vested unless the Director receives Replacement Awards.
- c. On a Change in Control in which our shares continue to be publicly traded, a Director's outstanding awards shall remain outstanding and be treated as Replacement Awards.

Notwithstanding the foregoing, the Director Plan Administrator may determine that any or all outstanding awards granted under the Director Plan will be canceled and terminated upon a Change in Control, and that in connection with such cancellation and termination, the Director shall receive for each share of common stock subject to such award a cash payment (or the delivery of shares of stock, other securities or a combination of cash, stock and securities equivalent to such cash payment) equal to the consideration received by our stockholders for a share of common stock in such Change in Control.

Amendment and Termination

The Director Plan Administrator may, at any time, alter, amend, modify, suspend, or terminate the Director Plan in whole or in part; provided, however, that, without the prior approval of our stockholders, no such amendment shall increase the number of shares that may be granted to any Director, except as otherwise provided in the Director Plan, or increase the total number of shares that may be granted under the Director Plan. In addition, any amendment of the Director Plan must comply with the rules of the Trading Market, and no material amendment of the Director Plan shall be made without stockholder approval if stockholder approval is required by law, regulation, or stock exchange rule.

Federal Income Tax Consequences

With respect to shares granted under the Director Plan, unless deferred if and when the Board authorizes the deferral feature, the Director will be taxed on the fair market value of such shares at ordinary income rates at the time such shares vest or, if the Director made an election under Section 83(b), on the grant date. We will receive a corresponding deduction for the same amount at the same time.

With respect to cash or shares deferred under the Director Plan, Directors will be taxed on amounts distributed to them from their deferred cash and deferred stock accounts at ordinary income rates at the time of such distributions. We will receive a deduction for the same amounts at the same time.

Upon the sale or other disposition of shares acquired by a Director under the Director Plan, the Director will recognize short-term or long-term capital gain or loss, depending on whether such shares have been held for more than one year at such time. Such capital gain or loss will equal the difference between the amount realized on the sale of such shares and the Director's tax basis in such shares (generally, the amount previously included in income by the Director in connection with the grant or vesting of such shares). Such sale or other disposition by a Director should have no tax consequences for us.

Other Information

The number of shares to be issued in each year is not determinable, as it varies based on the amount of stock awards determined to be paid to Directors as part of their retainer fees.

Welfare and other benefits

We provide health, dental, and vision insurance benefits to our Named Executive Officers, on the same terms and conditions as provided to all other eligible U.S. employees except for a recently hired employee in North Dakota for whom separate benefit arrangements are being put together due to North Dakota laws.

We maintain a broad-based 401(k) plan including our Named Executive Officers. Our Named Executive Officers did not participate in, or otherwise receive any benefits under, any pension or retirement plan sponsored by the Company during the fiscal year ended May 31, 2023. Our Named Executive Officers did not participate in, or earn any benefits under, a non-qualified deferred compensation plan sponsored by the Company during the fiscal year ended May 31, 2023.

Director Compensation

The following table presents the compensation for each person who served as a director on our Board during fiscal year ended May 31, 2023:

Name	Fees Earned or Paid in Cash (\$)	Stock Awards (\$)⁽¹⁾	All Other Compensation (\$)	Total (\$)
Chuck Hastings	\$33,000	\$210,503	0	\$243,503
Kelli McDonald	\$38,000	\$210,503	0	\$248,503
Douglas Miller	\$45,000	\$210,503	0	\$255,503
Virginia Moore	\$35,000	\$210,503	0	\$245,503
Richard Nottenburg	\$36,000	\$210,503	0	\$246,503
Jason Zhang ⁽²⁾	0	0	\$11,500,000 ⁽³⁾	\$11,500,000

(1) Amounts shown represent the aggregate grant date fair value, computed in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 718, of awards of restricted stock granted during fiscal year ended May 31, 2023. Each director held 76,191 unvested shares of restricted stock as of May 31, 2023.

(2) Jason Zhang served as director through November 10, 2022. 4,368,848 RSUs vest on November 7, 2023 and the remainder vest on November 7, 2024.

(3) Of the All Other Compensation, \$550,000 represents cash compensation received by Mr. Zhang for his services as a consultant to the Company and a signing bonus for entering into the Consulting Agreement as described below and (b) \$10.95 million represents the value of 5 million RSUs awarded to Mr. Zhang as compensation for consulting services rendered prior to the fiscal year ended May 31, 2023. On November 7, 2022, the Company and Mr. Zhang executed a written consulting agreement, effective as of September 1, 2023 (the "Consulting Agreement") setting forth his previously disclosed verbal consulting arrangement pursuant to which Mr. Zhang received \$25,000 per month in return for his services providing ongoing advice and guidance and providing for, among other things, a 3 year term which may be terminated by either party on 10 days prior written notice.

The following table shows the annual cash retainer fees for non-employee directors

Base retainer	\$40,000
Audit Committee Chair	\$20,000
Audit Committee Member	\$10,000
Compensation Committee Chair	\$15,000
Compensation Committee Member	\$7,500
Nominating and Governance Committee Chair	\$12,000
Nominating and Governance Committee Member	\$6,000
Lead Independent Director	\$25,000

Directors serving in multiple leadership roles receive incremental compensation for each role. Directors are not expected to receive additional compensation for attending regularly scheduled Board or committee meetings. For less than full years of service, the compensation paid to the non-employee directors will be prorated based on the number of days of service. Directors also receive customary reimbursement for reasonable out-of-pocket expenses related to Board service.

In addition to the annual cash retainer fees, directors also receive an annual grant of restricted stock valued at \$160,000, calculated using the closing price of the Common Stock on the Nasdaq Global Select Market on the date of grant, which is the date of each annual meeting of stockholders, and vesting on the first anniversary of the date of grant.

On April 21, 2023, directors received (i) a grant of 76,191 shares of restricted stock that will vest on November 10, 2023 in order to compensate directors who were elected on November 10, 2022 for the subsequent 12 months, and (ii) a grant of 18,630 vested shares in light of the fact that the non-employee directors did not receive a grant of equity on April 21, 2022 as originally contemplated under the Director Plan.

Directors who are employees of the Company do not receive any additional compensation for Board service.

Compensation Committee Interlocks and Insider Participation

None of the members of our Compensation Committee is, or has been, our officer or employee. None of our executive officers currently serves, or during the year ended May 31, 2021 served, as a member of the Board, or as a member of the compensation or similar committee, of any entity that has one or more executive officers serving on our Board or Compensation Committee.

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

Related Transactions

In addition to the compensation arrangements discussed in the sections titled “Management” and “Executive Officer and Director Compensation,” the following is a description of each transaction since June 1, 2022 and each currently proposed transaction in which:

- a. we have been or are to be a participant;
- b. the amount involved exceeded or will exceed \$120,000; and
- c. any of our directors, executive officers, or holders of more than 5% of our capital stock, or any immediate family member of, or person sharing the household with, any of these individuals, had or will have a direct or indirect material interest.

GMR Limited (“GMR”) holds more than 5% of our outstanding Common Stock. Each of Guo Chen, a 50% owner and sole director of GMR, and Bo Dong, 50% owner of GMR, are deemed to beneficially own shares of our Common Stock held by GMR. GMR and subsidiaries made payments to the Company of approximately \$9.2 million during the fiscal year ended May 31, 2023.

Mr. Chen owns 60% of Alternity Fund Ltd., which owns 100% of GOI. Jason Zhang, a former director of the Company, owned 15% of Alternity during the fiscal year ended May 31, 2023. On December 8th, 2021, we entered into a Service Order with GOI pursuant to which we provide energized space for mining activities of GOI. During fiscal year 2023, GOI paid approximately \$6.4 million to the Company pursuant to the Service Order.

Bryant Riley, chairman of the board and co-chief executive officer, of B. Riley Financial, Inc. (Nasdaq: RILY), directly or indirectly through subsidiaries of RILY, held in excess of 5% of our then outstanding Common Stock beginning in April 2023. Such shares no longer represent more than 5% of our outstanding Common Stock. On May 23, 2023, the Company entered into a Loan and Security Agreement with B. Riley Commercial Capital, LLC and B. Riley Securities, Inc., each of which is a wholly-owned subsidiary of RILY, with a total possible principal amount up to \$50 million. As of May 31, 2023 the total loan balance was \$36.5 million, all of which has been subsequently repaid as of July 17, 2023.

Review, Approval, or Ratification of Transactions with Related Parties

In July 2021, we adopted a charter of the Audit Committee, pursuant to which all related party transactions including those between us, our directors, executive officers, majority stockholders and each of our respective affiliates or family members will be reviewed and approved by our Audit Committee, or if no Audit Committee exists, by a majority of the independent members of our Board. Our existing policies are designed to comply with applicable rules and regulations of the SEC and the listing requirements and rules of Nasdaq.

Director Independence

Please see the discussion of director independence under Item 10. Directors, Executive Officers and Corporate Governance starting on page 60 above.

Part IV

Item 15. Exhibits, Financial Statement Schedules

Documents filed as part of this report

All financial statements:

Index to consolidated financial statements	Page
Report of Registered Independent Public Accounting Firm	36
Consolidated Balance Sheets as of May 31, 2023 and 2022	38
Consolidated Statements of Operations for the Annual Period Ended May 31, 2023, and 2022	39
Consolidated Statements of Changes in Stockholders' Equity for the Annual Period ended May 31, 2023 and 2022	40
Consolidated Statements of Cash Flows for the Annual Period ended May 31, 2023 and 2022	41
Notes to Consolidated Financial Statements	43

Financial statement schedules:

All financial statement schedules have been omitted, since the required information is not applicable or is not present in amounts sufficient to require submission of the schedule, or because the information required is included in the consolidated financial statements and accompanying notes included in this Form 10-K.

Exhibits required by Item 601 of Regulation S-K:

Exhibit No.	Description
3.1**	Second Amended and Restated Articles of Incorporation, as amended from time to time.
3.2	Amended and Restated Bylaws, as amended from time to time (Incorporated by reference to Exhibit 3.2 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021)
4.1	Registration Rights Agreement, dated April 15, 2021, by and between the Company and B. Securities, Inc., for the benefit of B. Riley Securities, Inc. and the Investors. (Incorporated by reference to Exhibit 4.1 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).
4.1.1	Amendment, dated December 13, 2021, to Registration Rights Agreement, dated April 15, 2021, by and between the Company and B. Riley Securities, Inc., for the benefit of B. Riley Securities, Inc. and the Investors (Incorporated by reference to Exhibit 3.2 to Amendment No. 6 the Company's form S-1 (Registration No. 333-258818), filed with the SEC on April 12, 2022).
4.1.2	Amendment No. 2, dated February 22, 2022, to Registration Rights Agreement, dated April 15, 2021, by and between the Company and B. Riley Securities, Inc., for the benefit of B. Riley Securities, Inc. and the Investors (Incorporated by reference to Exhibit 4.3 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on February 28, 2022).
4.2	Registration Rights Agreement, dated July 30, 2021, by and between the Company and B. Securities, Inc., for the benefit of B. Riley Securities, Inc. and the Investors (Incorporated by reference to Exhibit 4.2 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).
4.2.1	Amendment, dated December 13, 2021, to Registration Rights Agreement, dated July 30, 2021, by and between the Company and B. Riley Securities, Inc., for the benefit of B. Riley Securities, Inc. and the Investors (Incorporated by reference to Exhibit 3.2 to the Company's form S-1 (Registration No. 333-258818), filed with the SEC on April 12, 2022).
4.2.2	Amendment No. 2, dated February 22, 2022, to Registration Rights Agreement, dated July 30, 2021, by and between the Company and B. Riley Securities, Inc., for the benefit of B. Riley Securities, Inc. and the Investors (Incorporated by reference to Exhibit 4.6 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on February 28, 2022).
4.3	Right of First Refusal and Co-Sale Agreement, dated as of April 15, 2021, by and between the Company, the Key Holders and Investors (Incorporated by reference to Exhibit 4.3 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).
4.4	Right of First Refusal and Co-Sale Agreement, dated as of July 30, 2021, by and between the Company, the Key Holders and Investors. (Incorporated by reference to Exhibit 4.4 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).
4.5**	Description of Securities.

10.1	<u>Services Agreement, dated March 19, 2021, by and among the Company, GMR Limited, Xsquared Holding Limited, and Valuefinder (Incorporated by reference to Exhibit 10.1 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).</u>
10.2	<u>Master Professional Services Agreement between Ulteig Engineers, Inc. and APLD Hosting, LLC. (Incorporated by reference to Exhibit 10.2 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).</u>
10.3	<u>Non-Fixed Price Sales and Purchase Agreement, dated April 13, 2021, between Bitmain Technologies Limited and the Company (Incorporated by reference to Exhibit 10.3 to the company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).</u>
10.4	<u>Coinmint Colocation Mining Services Agreement dated as of June 15, 2021 by and between Coinmint, LLC and the Company (Incorporated by reference to Exhibit 10.4 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).</u>
10.5#	<u>Service Framework Agreement, dated July 5, 2021, by and between APLD Hosting, LLC and JointHash Holding Limited (Incorporated by reference to Exhibit 10.5 to Amendment No. 1 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on November 2, 2021).</u>
10.6#	<u>Amended and Restated Electric Services Agreement, dated September 13, 2021, by and between APLD Hosting, LLC and [Redacted] (Incorporated by reference to Exhibit 10.6 to Amendment No. 1 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on November 2, 2021).</u>
10.7	<u>Sublease Agreement, dated as of May 19, 2021, by and between the Company and Encap Investments L.P. (Incorporated by reference to Exhibit 10.7 to the Company's Form S-1 (Registration No. 333-258818), filed with the SEC on August 13, 2021).</u>
10.8#	<u>Service Framework Agreement, dated July 5, 2021, by and between APLD Hosting, LLC and Bitmain Technologies Limited (Incorporated by reference to Exhibit 10.8 to the Company's Annual Report on Form 10-K, filed with the SEC on August 29, 2022).</u>
10.9#	<u>Master Hosting Agreement, dated as of September 20, 2021, by and between APLD Hosting, LLC and F2Pool Mining, Inc. (Incorporated by reference to Exhibit 10.9 to Amendment No. 1 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on November 2, 2021).</u>
10.10#	<u>Master Hosting Agreement, dated as of October 12, 2021, by and between APLD Hosting, LLC and Hashing LLC. ((Incorporated by reference to Exhibit 10.10 to Amendment No. 1 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on November 2, 2021).</u>
10.11	<u>Services Agreement, effective as of October 12, 2021, by and among Applied Blockchain, LTD and Xsquared Holding Limited. (Incorporated by reference to Exhibit 10.11 to Amendment No. 1 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on November 2, 2021).</u>
10.12†	<u>2022 Incentive Plan (Incorporated by reference to Exhibit 10.1 to the Company's registration statement on Form S-8 (Registration No. 333-265698), filed with the SEC on June 17, 2022).</u>
10.12.1†	<u>Form of Employee Restricted Stock Award Agreement (Incorporated by reference to Exhibit 10.2 to the Company's registration statement on Form S-8 (Registration No. 333-265698), filed with the SEC on June 17, 2022).</u>
10.12.2†	<u>Form of Restricted Stock Unit Award Agreement (Employees) (Incorporated by reference to Exhibit 10.3 to the Company's registration statement on Form S-8 (Registration No. 333-265698), filed with the SEC on June 17, 2022).</u>
10.12.3†	<u>Form of Restricted Stock Unit Award Agreement (Consultants) (Incorporated by reference to Exhibit 10.4 to the Company's registration statement on Form S-8 (Registration No. 333-265698), filed with the SEC on June 17, 2022).</u>
10.13†	<u>2022 Non-Employee Director Stock Plan (Incorporated by reference to Exhibit 10.5 to the Company's registration statement on Form S-8 (Registration No. 333-265698), filed with the SEC on June 17, 2022).</u>
10.13.1**†	<u>First Amendment to the 2022 Non-Employee Director Stock Plan, dated April 4, 2023.</u>
10.13.2	<u>Form of Director Restricted Stock Award Agreement (Incorporated by reference to Exhibit 10.6 to the Company's registration statement on Form S-8 (Registration No. 333-265698), filed with the SEC on June 17, 2022).</u>
10.14#	<u>Limited Liability Company Agreement, dated as of January 6, 2022, by and between the Company and Antpool Capital Asset Investment L.P. (Incorporated by reference to Exhibit 10.14 to Amendment No. 5 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on January 24, 2022).</u>

10.15†	Employment Agreement, effective as of November 1, 2021, by and between the Company and Wes Cummins (Incorporated by reference to Exhibit 10.15 to Amendment No. 5 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on January 24, 2022).
10.16†	Employment Agreement, effective as of November 1, 2021, by and between the Company and David Rench (Incorporated by reference to Exhibit 10.16 to Amendment No. 5 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on January 24, 2022).
10.17**	Ground Lease, effective as of April 13, 2022, by and between EDB, Ltd and APLD - Rattlesnake Den I LLC
10.18†	Employment Agreement, effective as of November 1, 2021, by and between the Company and Regina Ingel (Incorporated by reference to Exhibit 10.17 to Amendment No. 5 to the Company's registration statement on Form S-1 (Registration No. 333-258818), filed with the SEC on January 24, 2022).
10.18.1	Amendment dated August 1, 2022 to Employment Agreement between Applied Blockchain, Inc. and Regina Ingel (Incorporated by reference to Exhibit 10.1 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on August 5, 2022).
10.19	Loan Agreement dated as of March 11, 2022 by and between APLD Hosting, LLC, Vantage Bank Texas and Applied Blockchain, Inc. (Incorporated by reference to Exhibit 10.20 to Amendment No. 6 the Company's form S-1 (Registration No. 333-258818), filed with the SEC on April 12, 2022).
10.20	Continuing Guaranty Agreement dated as of March 11, 2022 by Applied Blockchain, Inc. for the benefit of Vantage Bank Texas. (Incorporated by reference to Exhibit 10.21 to Amendment No. 6 the Company's form S-1 (Registration No. 333-258818), filed with the SEC on April 12, 2022).
10.21	Letter between Applied Blockchain, Inc. and Xsquared Holding Limited dated June 6, 2022 (Incorporated by reference to Exhibit 10.1 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on June 8, 2022).
10.22	Hosting Agreement, dated as of July 12, 2022, by and between Marathon Digital Holdings, Inc. and Applied Blockchain, Inc. (Incorporated by reference to Exhibit 10.6 to the Company's quarterly report on Form 10-Q (Commission File No. 001-31968), filed with the SEC on October 12, 2022).
10.23	Loan Agreement, dated as of July 25, 2022, by and among APLD Hosting, LLC, Starion Bank, and Applied Blockchain, Inc. as Guarantor (Incorporated by reference to Exhibit 10.1 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on August 12, 2022).
10.24	Security Agreement, dated of July 25, 2022, by and between APLD Hosting, LLC and Starion Bank (Incorporated by reference to Exhibit 10.2 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on August 12, 2022).
10.25	Security Agreement, dated of July 25, 2022, by and among APLD Hosting, LLC, Applied Blockchain, Inc., as Grantor, and Starion Bank (Incorporated by reference to Exhibit 10.3 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on August 12, 2022).
10.26	Unlimited Commercial Corporate Guaranty of Applied Blockchain, Inc. dated as of July 25, 2022 (Incorporated by reference to Exhibit 10.4 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on August 12, 2022).
10.27	Loan Agreement by and among APLD – Rattlesnake Den I, LLC, as borrower, Vantage Bank Texas, as lender, and the Company, as guarantor, entered into as of November 7, 2022 (Incorporated by reference to Exhibit 10.1 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on November 14, 2022).
10.28#	Loan Agreement, dated as of February 16, 2023 by and among APLD ELN-01 LLC, Starion Bank, and Applied Digital Corporation as Guarantor (Incorporated by reference to Exhibit 10.1 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on February 21, 2023).
10.29#	Security Agreement, dated as of February 16, 2023 by and between APLD ELN-01 LLC and Starion Bank (Incorporated by referenced to Exhibit 10.2 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on February 21, 2023).
10.30	Security Agreement, dated as of February 16, 2023 by and among APLD ELN-01 LLC, Applied Digital Corporation and Starion Bank (Incorporated by referenced to Exhibit 10.3 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on February 21, 2023).
10.31	Unlimited Commercial Corporate Guaranty of Applied Digital Corporation dated as of February 16, 2023 (Incorporated by referenced to Exhibit 10.4 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on February 21, 2023).
10.32#	Loan and Security Agreement, dated as of May 23, 2023, by and among SAI Computing, LLC as Borrower, B. Riley Commercial Capital, LLC and B. Riley Securities, Inc., as Lenders, B. Riley Commercial Capital, LLC as Collateral Agent, and Applied Digital Corporation as Guarantor (Incorporated by reference to Exhibit 10.1 to the Company's current report on Form 8-K (Commission File No. 001-31968), filed with the SEC on May 24, 2023).

10.33*	Consulting Agreement executed on November 7, 2022, effective as of September 1, 2022, by and between the Company and Jason Zhang
21.1**	List of Subsidiaries.
23.1**	Consent of Marcum, LLP.
24.1**	Power of Attorney (contained on signature page).
31.1*	Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1***	Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2***	Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS*	Inline XBRL Instance Document.
101.SCH*	Inline XBRL Taxonomy Extension Schema Document.
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104*	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

* Filed herewith.

** Previously filed with the original Form 10-K filed with the Securities and Exchange Commission on August 2, 2023 (the "Original Form 10-K").

*** Previously furnished with the Original Form 10-K, is not deemed filed with the Securities and Exchange Commission, and is not incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of the Original Form 10-K and irrespective of any general incorporation language contained in such filing.

† Management compensatory agreement.

Portions of this exhibit have been omitted pursuant to Rule 601(b)(10) of Regulation S-K. The omitted information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Amendment No. 1 to its annual report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dallas, Texas on October 12, 2023.

APPLIED DIGITAL CORPORATION

By: /s/ Wesley Cummins
Name: Wesley Cummins
Title: Chief Executive Officer, Secretary and Treasurer (Principal Executive Officer)

By: /s/ David Rench
Name: David Rench
Title: Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this Amendment No. 1 to the Company's Annual Report on Form 10-K has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated:

<u>Person</u>	<u>Capacity</u>	<u>Date</u>
<u>/s/ Wesley Cummins</u> Wesley Cummins	Chairperson of the Board and Director (Principal Executive Officer)	October 12, 2023
<u>/s/ David Rench</u> David Rench	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	October 12, 2023
<u>*</u> Chuck Hastings	Director	October 12, 2023
<u>*</u> Kelli McDonald	Director	October 12, 2023
<u>*</u> Douglas Miller	Director	October 12, 2023
<u>*</u> Virginia Moore	Director	October 12, 2023
<u>*</u> Richard Nottenburg	Director	October 12, 2023

* By: /s/ Wesley Cummins
Wesley Cummins
Attorney-In-Fact

CONSULTING SERVICES AGREEMENT

THIS CONSULTING SERVICES AGREEMENT (this "Agreement") is made as of September 1, 2022 (the "Effective Date"), and by and between JASON ZHANG ("Consultant"), and Applied Blockchain, Inc. ("Company"). Consultant and Company are collectively referred to herein as, the "Parties."

The Company desires to engage Consultant to provide the services described below, and Consultant desires to perform such services for the Company.

In consideration of the premises and the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Term. The term of this Agreement shall begin on the Effective Date and shall continue for a period of three (3) years thereafter, subject to the termination provisions herein (the "Term"). Should the parties wish to extend the Term, they shall negotiate in good faith an extension that is mutually agreeable.

2. Services. Consultant agrees to provide ongoing advice and guidance, and to perform such services including, but not limited to, oversight of the management team and assistance, as necessary, to the CEO. All services and assistance rendered by Contractor pursuant to this Section 2 shall be collectively referred to as the "Services."

3. Fees and Expenses; Equity.

(a) Subject to the terms and conditions set forth in this Agreement, Company hereby agrees to pay the Consultant:

- (I) \$25,000 per month, payable on or about the first day of each month during the Term (the "Monthly Fee")
- (II) Annual bonus potential of up to 100% of the base Monthly Fee (\$25,000 per month), paid out at the end of each fiscal year, starting from the new fiscal year beginning June 2022
- (III) One-time signing bonus of \$250,000 (corresponding to services provided from August 2021 through May 2022) to be paid no later than March 1, 2023.

(b) Consultant shall be responsible for paying his own expenses in connection with the performance of the Services hereunder. Notwithstanding the foregoing, the Company agrees that it will reimburse Consultant for certain, limited, reasonable and necessary business development expenses (i.e., equipment, travel, meals, mileage), provided, proper paper substantiation in the form of receipts is timely provided.

(c) As equity compensation payable to Consultant under this Agreement for the Services, on the Effective Date, the Company issues to Consultant, 5,000,000 (five million) restricted shares (the "Consultant Shares") of Common Stock of the Company (the "Common Stock"), subject to the vesting schedule set forth below. The Consultant Shares shall vest according to the following schedule:



(l) 4,386,848 (four million three hundred eighty-six thousand eight hundred forty-eight) of the Consultant Shares will vest upon the first anniversary of the signing of this Agreement; the remaining 613,152 (six hundred thirteen thousand one hundred fifty-two) of the Consultant shares will vest on the second anniversary of the signing of this agreement, with the stipulation that the Consultant remains as a consultant. The Consultant Shares will be subject to the specific terms of a separate award agreement that will be provided to the Consultant and will reflect all applicable terms and provisions of the Restricted Stock award.

(d) Consultant hereby authorizes the Company to withhold shares of Common Stock from the shares of Consultant Stock otherwise issuable or deliverable to the Consultant as a result of the vesting of the Consultant Stock to satisfy any federal, state or local tax withholding obligations of the Consultant.

(e) Notwithstanding any action the Company takes with respect to any or all income tax or other tax-related withholding (“Tax-Related Items”), the ultimate liability for all Tax-Related Items is and remains Consultant’s responsibility and the Company (a) makes no representation or undertakings regarding the treatment of any Tax-Related Items in connection with the grant, vesting or settlement of the Consultant Shares or the subsequent sale of any shares; and (b) does not commit to structure the Consultant Shares to reduce or eliminate Consultant’s liability for Tax-Related Items.

4. Independent Contractor. The Parties agree that Consultant is and shall be an independent contractor with respect to Company. There is no employment relationship between the parties. The Services shall be performed by the Consultant under his own superintendence and at his own risk. Consultant shall be responsible for utilizing his own equipment and contacts in connection with the Services.

5. Taxes and Reporting Requirements. Consultant covenants and agrees that he will prepare all applicable income and information tax returns and all other governmental reports of any kind and report all taxes resulting from the performance of the Services in a manner consistent with this Section 5. Consultant shall be liable for and shall indemnify Company with respect to all taxes, contributions and penalties imposed on Company by any governmental or other public authority having jurisdiction with respect to or measured by the income or profit received by Consultant pursuant to this Agreement, including all payment and contribution requirements pursuant to workers’ compensation, employment insurance and income tax, or any such similar legislation or requirement as may be in force from time to time.

6. Non-Exclusive Relationship. Consultant performs and may continue to perform services for and on behalf of third parties; provided, however, that the performance of services for third parties does not create a conflict of interest in respect of Consultant’s responsibilities and obligations to Company pursuant to this Agreement or otherwise cause Consultant to violate any of the terms or conditions set forth herein.

7. Restrictive Covenants. As used herein, “Restrictive Covenants” refers to the matters discussed in this Section 7.

7.1. Protection of Confidential Information.

(a) Access. Company and Consultant acknowledge that to assist Consultant in the performance of the Services hereunder, Consultant will, from time to time, receive or have access to Confidential Information (as defined below) owned by the Company, its affiliates and/or third

persons (including Clients (defined below) and prospective Clients (also defined below) who have furnished such information and materials to the Company under obligations of confidentiality).

(b) Definitions.

(1) Confidential Information. “Confidential Information” means any and all trade secrets concerning the business and affairs of the Company or its affiliates, Clients, and Third Party Relationships, including, but not limited to, vendor lists, vendor information, supplier information, pricing data and information, product specifications, inventions, past, current and planned research and development, current and planned manufacturing and distribution methods and processes, customer lists, current and anticipated customer requirements, market studies, business plans, and computer software and programs; provided, however, that Confidential Information does not include any of the foregoing that becomes generally known to and available for use by the public other than as a result of the Consultant’s acts or omissions.

(2) Client. “*Client*” means any individual, business, partnership, corporation, association, or other entity to whom services have been provided or products have been sold by the Company or one of its affiliates during the time frame in which Consultant provides services to the Company.

(3) Restricted Period. “*Restricted Period*” refers to the period Consultant provides Services to the Company and for twelve (12) months immediately following the termination of Consultant’s retention for any reason.

(4) Third Party Relationships. “*Third Party Relationships*” means any of the Company’s or its affiliates’ suppliers, vendors, referral sources, financial institutions, or any other business, entity, or individual that works with the Company or its affiliates.

(c) Non-Disclosure. Consultant shall hold in strict confidence and shall not directly or indirectly disclose, disseminate, publicize, use, copy or make lists of any, or use any Confidential Information, except to the extent authorized in writing by the Company or required by any court or administrative agency of competent jurisdiction, other than: (I) to an authorized employee or authorized independent contractor or authorized agent of the Company; or (ii) to a person to whom disclosure is, or use of which is, reasonably necessary or appropriate in connection with the performance by the Consultant of the Consultant’s Services to the Company as set forth in this Agreement.

7.2. Return of Documents. All records, files, notes or other documents or materials, whether in written or electronic form, and all copies thereof, relating to the Company or its operations, business or affairs that the Consultant shall prepare, use or is provided with in connection with the Consultant’s Services, shall be and shall remain the sole and exclusive property of the Company. Consultant shall promptly return to the Company all such records, files, notes or other documents, including, without limitation, Confidential Information, or materials and copies thereof in the Consultant’s possession or under the Consultant’s custody or control upon the termination of this Agreement or such earlier time or times as the Company may request.

7.3. Non-Solicitation of Clients and Personnel; Non-Interference. Consultant acknowledges and agrees that (is) the Company has made substantial investments to develop its business interests and goodwill and to provide special training and access to Confidential Information to Consultant for the performance of Consultant’s duties hereunder: and (ii) the success of the Company’s business in the

marketplace depends upon its goodwill and reputation for quality and dependability. During the Restricted Period (defined above), Consultant (individually, or through or on behalf of any entity, person, corporation, or partnership) shall not, in any capacity or for anyone other than the Company, directly or indirectly, without the prior written consent of the Board of the Company:

(a) induce, recruit, solicit, entice, or attempt to induce, recruit, or solicit any Client or Third-Party Relationship to terminate, alter, or limit its, his, or her relationship with the Company;

(b) interfere with the Company's relations with its Clients or Third-Party Relationships, or otherwise divert business from the Company; or

(c) take away or assist others in recruiting, soliciting or hiring any person or entity who Consultant comes into contact with directly as a result of Consultant's retention by the Company, or encourage such person or entity to terminate his employment or independent contractor relationship with the Company or representative of the Company, other than pursuant to general advertisements.

7.4. Enforcement. Consultant agrees that a breach or a threatened or reasonably anticipated breach on his part of the Restrictive Covenants will cause such damage to the Company as will be irreparable and for that reason Consultant further agrees that the Company shall be entitled to injunctive or other equitable relief as determined by any court of competent jurisdiction. The Company is entitled to such relief in a court of competent jurisdiction to secure emergency relief notwithstanding Section 10. If any such injunctive or other equitable relief is granted, the Company shall be entitled to discontinue making any payments to the Consultant under the terms of this Agreement until such time as the Consultant is in compliance with the Restrictive Covenants as written, or as modified by a court of competent jurisdiction. This right to pursue injunctive relief shall be cumulative and in addition to any and all other remedies the Company may have, including, specifically, recovery of damages.

7.5. Extension of Restricted Period for Injunctive Relief. If the Consultant violates the Restrictive Covenants and the Company brings legal action for injunctive or other relief under Section 7.4, the Company shall not be deprived of the benefit of the full period of the Restrictive Covenants as a result of the time spent by the Company in obtaining such relief and the Restricted Period shall be tolled for the duration of any period during which the Company seeks and obtains such relief from a court of competent jurisdiction.

7.6. Reasonableness of Restrictions. Consultant expressly acknowledges and agrees that the Restrictive Covenants are reasonable as to both scope and time.

8. Termination of Agreement. This Agreement may be terminated at any time prior to or after the Effective Date, without justification, by either Party (the "Terminating Party") by giving to the other Party ten (10) days' prior written notice of the Terminating Party's intent to terminate this Agreement. Such termination shall not prejudice any remedy that either Party may have at law, in equity or under this Agreement.

9. Notices. All notices, requests, consents and other communications provided for herein shall be in writing and shall be (i) delivered in person, (ii) transmitted by telecopy or email, (iii) sent by first-class, registered or certified mail, postage prepaid or (iv) sent by reputable overnight courier service, fees prepaid, to the recipient at the address or telecopy number set forth below.

10. Arbitration. Except as otherwise provided below, all claims, disputes, controversies, and causes of action arising hereunder or otherwise related to Consultant's Services with the Company shall be

finally resolved by arbitration administered by JAMS under and in accordance with its Comprehensive Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered by any court having competent jurisdiction in accordance with this Agreement. Arbitration must be initiated within 180 days of the date the claim arises, unless a longer time period for commencing an action is provided under federal or state law. The arbitration shall take place in Dallas, Texas. The Party initiating arbitration shall request a list of eleven (11) impartial arbitrators from the office of JAMS in Dallas, Texas. From this list, the Parties will alternately strike arbitrators (with the Party initiating arbitration making the first strike) until one name is left. Discovery in the arbitration shall be as limited as reasonably possible. The arbitration, including the hearing and record of the proceedings, are confidential and shall not be open to the public unless all Parties agree in writing or as otherwise required by applicable law. The prevailing Party shall be reimbursed its costs, including reasonable attorneys' fees and arbitration expenses proportionate to the degree of its success from the other Party.

11. Miscellaneous.

(a) Amendments. This Agreement may be modified or amended only with the prior written consent of each of the Parties hereto.

(b) Entire Agreement. This Agreement (i) contains the complete and entire understanding and agreement of the Parties hereto with respect to the subject matter hereof and (ii) supersedes all prior and contemporaneous understandings, conditions and agreements, oral or written, express or implied, respecting the engagement of the Consultant in connection with the subject matter hereof.

(c) Successors and Assigns. Except as otherwise expressly provided herein, all covenants and agreements contained in this Agreement by or on behalf of any of the Parties hereto shall bind and inure to the benefit of the respective successors and assigns of the Parties hereto whether so expressed or not.

(d) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

(e) Counterparts. This Agreement may be executed simultaneously in two or more counterparts, any one of which need not contain the signatures of more than one Party, but all such counterparts taken together shall constitute one and the same agreement.

(f) Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. The use of the word "including" in this Agreement shall be by way of example rather than by limitation.

(g) Governing Law/Forum Selection Clause. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The Parties agree that any dispute arising out of this Agreement will be litigated exclusively in state or federal court in Dallas County, Texas.



IN WITNESS WHEREOF, the Parties hereto have executed this Consultant Services Agreement on the date first written above.

COMPANY:

APPLIED BLOCKCHAIN, INC.

DocuSigned by:
By:  _____
Name: David Rench
Title: CFO

CONSULTANT:

DocuSigned by:
By:  _____
Name: Jason Zhang
Address: 2230 Evergreen Point Rd
Medina, WA 98039
Email: Jason@applieddigital.com



CERTIFICATION

I, Wesley Cummins, certify that:

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

Date: October 12, 2023

By: /s/ Wesley Cummins

Wesley Cummins, Chief Executive Officer, Treasurer, Chairperson
of the Board and Director (Principal Executive Officer)

CERTIFICATION

I, David Rench, certify that:

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

Date: October 12, 2023

By: /s/ David Rench

David Rench, Chief Financial Officer (Principal Financial and Accounting Officer)