

**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, 2022

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 BLOCKCHAIN, INC.**  
(Exact name of registrant as specified in its charter)

Nevada  
(State or other jurisdiction of  
incorporation or organization)

7370  
(Primary Standard Industrial  
Classification Code Number)

95-4863690  
(I.R.S. Employer  
Identification No.)

3811 Turtle Creek Blvd., Suite 2100, Dallas, TX 75219  
214-427-1704

(Address, including zip code, and telephone number, including area code, of principal executive offices)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	APLD	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 and posted on its corporate web site, if any, every Interactive Data File required to be submitted and posted 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

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

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

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

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.

The aggregate market value of voting stock held by non-affiliates of the Registrant on November 30, 2021, based on the closing price of \$2.16 (without giving effect to the Reverse Stock Split effected on April 12, 2022) for shares of the Registrant's common stock as reported by the OTC Markets (where the Registrant's common stock was trading at the time), was approximately \$175.1 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.

APPLICABLE ONLY TO REGISTRANTS INVOLVED IN BANKRUPTCY  
PROCEEDINGS DURING THE PRECEDING FIVE YEARS:

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.  Yes  No

APPLICABLE ONLY TO CORPORATE ISSUERS:

The registrant had outstanding 94,238,937 shares of common stock as of September 22, 2022.

DOCUMENTS INCORPORATED BY REFERENCE

None

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

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### **Explanatory Note**

Applied Blockchain, Inc. ("Applied Blockchain" 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, 2022, originally filed on August 29, 2022 (the "Original Report") solely to correct an error in the Summary Compensation Table contained in Part III, Item 11 and the audit fee table contained in Part III, Item 14. This Amendment amends and restates Part III, Item 11 and Part III, Item 14 of the Original Report and includes Part IV, Item 15 for purposes of filing Exhibits 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 Filing. Accordingly, this Amendment should be read in conjunction with the Original Annual Report and with the Company's other filings made with the Securities and Exchange Commission ("SEC") subsequent to the filing of the Original Annual Report.

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**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, 2022, 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.

Our 2022 Incentive Plan was approved in January 2022. Previously, compensation was primarily in the form of cash, except for grants made in 2021 outside of the 2022 Incentive Plan. Going forward, compensation will be in the form of a mix of cash and equity, and we expect equity compensation to be a significant portion of the overall pay mix.

**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
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✓	Annually assess the risk-reward balance of our compensation programs in order to mitigate undue risks in our programs	X	No pension plans or Supplemental Executive Retirement Plans
✓	Provide compensation mix that more heavily weights variable pay	X	No hedging or pledging of our securities
✓	An independent compensation consultant advises the Compensation Committee	X	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 2022, 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, 2022. The following is a list of the public companies that composed our peer group for the fiscal year ending May 31, 2022:

Alkami Technology	Core Scientific	Riot Blockchain
Backblaze	Couchbase	Sezzle
Bakkt Holdings	Global Tech Industries Group	Sollensys
Bit Digital	Greenidge Generation Holdings	Stronghold Digital Mining
BTRS Holdings	Marathon Digital Holdings	Sumo Logic
Cantaloupe	Paya Holdings	TeraWulf
Cipher Mining	Payoneer Global	Veritone
CleanSpark		

#### 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, 2021 and 2022 were as follows.

Named Executive Officer	Position	Base Salary FY21	Base Salary FY22
Wes Cummins	CEO	\$250,000	\$300,000
David Rench	CFO	\$200,000	\$240,000
Regina Ingel	EVP of Operations	\$90,000	\$120,000

#### 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, 2022, 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 Rensch	CFO	75%
Regina Ingel	EVP of Operations	50%

#### Equity Compensation

During the fiscal year ended May 31, 2022, we granted restricted stock units 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. On January 4, 2022, grants to our Named Executive Officers were as follows:

Named Executive Officer	Position	# of Restricted Stock Units
Wes Cummins	CEO	500,000
David Rensch	CFO	166,666
Regina Ingel	EVP of Operations	100,000

#### Employment Agreements with Named Executive Officers

The Company currently has employment agreements with Mr. Cummins, Mr. Rensch and Ms. Ingel. 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, Mr. Rensch's and Ms. Ingel's employment agreements.

#### 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, 2022. 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, 2022.

#### 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.

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.

#### ***COMPENSATION COMMITTEE REPORT***

The following report does not constitute soliciting material and is not considered filed or incorporated by reference into any other filing by the Company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

The Compensation Committee has reviewed and discussed the Compensation Discussion & Analysis that precedes this Report as required by Item 402(b) of the SEC's Regulation S-K. Based on its review and discussions with management, the Compensation Committee recommended to the Board the inclusion of the Compensation Discussion & Analysis in this proxy statement.

The Compensation Discussion & Analysis discusses the philosophy, principles, and policies underlying the Company's compensation programs that were in effect during fiscal 2022.

Respectfully submitted,

The Compensation Committee of the Board of Directors

Kelli McDonald, Chair  
Douglas Miller  
Virginia Moore  
Richard Nottenburg

#### ***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, 2022, 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 Regina Ingel, our Chief Marketing Officer.

#### ***Summary Compensation Table***

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Name and Principal Position(s)	Year	Salary (\$) (1)	Bonus (\$)	Non-Equity Incentive Plan Compensation (\$) (2)	All Other Compensation (\$) (3)	Total (\$)
Wes Cummins	2022	\$279,167	\$300,000	\$4,020,000	\$—	\$4,599,167
Chief Executive Officer, President, Secretary and Treasurer	2021	52,083	—	—	—	52,083
	2020	—	—	—	—	—
David Rench	2022	\$254,707	\$180,000	\$1,339,987	\$—	\$1,774,694
Chief Financial Officer	2021	41,667	20,000	—	—	61,667
	2020	—	—	—	—	—
Regina Ingel	2022	\$105,000	\$60,000	\$804,000	\$—	\$969,000
Chief Marketing Officer	2021	12,500	9,000	—	—	21,500
	2020	—	—	—	—	—

- 2021 amounts represent compensation for partial year service from March 2021 through May 31, 2021.
- Represents the aggregate grant date of value of restricted stock awards made during fiscal year ended May 31, 2022, computed in accordance with FASB ASC Topic 718.
- Consists of all other compensation not covered in the salary, bonus, and non-equity incentive compensation categories.

### 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.

*Ingel Agreement*

Regina Ingel is our Chief Marketing Officer. On January 4, 2022, we and Ms. Ingel entered into an Employment Agreement, effective as of November 1, 2021 (the “Ingel Employment Agreement”).

Pursuant to the Ingel Employment Agreement, Ms. Ingel receives a base salary of \$120,000 per annum, subject to annual review, and shall also be eligible for an annual bonus of up to 50% of her base salary, to be determined at our sole discretion. The term of the Ingel 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 Ingel Employment Agreement granted Ms. Ingel an incentive award of 100,000 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*
50,000 .....	4/1/2022
12,500 .....	7/1/2022
12,500 .....	10/1/2022
12,500 .....	1/1/2023
12,500 .....	4/1/2023

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

The Ingel Employment Agreement requires Ms. Ingel to devote forty (40) hours per week to her employment duties and obligations, and provides that Ms. Ingel 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 Ingel Employment Agreement.

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

On August 1, 2022, the Ingel Employment Agreement was amended to change Ms. Ingel’s title to Chief Marketing Officer and increase her annual base salary to \$185,000.

**Severance Agreements**

None of our employees have severance agreements.

**OUTSTANDING EQUITY AWARDS AT MAY 31, 2022**

**STOCK AWARDS**

Name	Number of Shares or Units of Stock That Have Not Vested (#) (1)	Market Value of Shares or Units of Stock That Have Not Vested (\$)
<b>Wes Cummins</b>	500,000	\$2,415,000
<b>David Rench</b>	166,666	\$804,997

<b>Regina Ingel</b>	100,000	\$483,000
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(1) Reflects shares of restricted stock granted outside of the 2022 Incentive Plan. Such shares vest as follows: one-half vest on April 1, 2022 or, if later, the date that a registration statement including the resale of such shares is declared effective by the SEC (the "Later Date"), and one-eighth vest on each of July 1, 2022, October 1, 2022, January 1, 2023 and April 1, 2023, or in each case, if later, the Later Date.

#### Equity Compensation Plans

The following table sets forth certain information, as of May 31, 2022, regarding the shares of the Company's common stock authorized for issuance under the Company's equity compensation plans.

<b>Plan</b>	<b>Number of shares of Common Stock issuable upon exercise of outstanding options, warrants or rights (1)</b>	<b>Weighted average of exercise price of outstanding</b>	<b>Number of shares of Common Stock remaining available for future issuance</b>
2022 Incentive Plan	—	\$—	13,333,333
2022 Non-Employee Director Stock Plan	—	\$—	1,833,333
Compensation plans not approved by shareholders (2)	1,791,667	\$—	--

(1) Shares of Common Stock.

(2) 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 summary of the material features of the Incentive Plan is qualified in its entirety by reference to the Incentive Plan, a copy of which is attached as Exhibit 10.12 to the registration statement of which this prospectus forms a part.

##### *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

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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 transferrable 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.

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#### *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

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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 is 13,333,333 shares, 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*

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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

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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 summary of the material features of the Director Plan is qualified in its entirety by reference to the Director Plan, a copy of which is attached as Exhibit 10.13 to the registration statement of which this prospectus forms a part.

#### *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

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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.

#### *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.

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- 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 forgoing, 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.

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We also sponsor a broad-based 401(k) plan intended to provide eligible U.S. employees other than our recently hired employee in North Dakota for whom all benefits are being put into place in accordance with North Dakota law, with an opportunity to defer eligible compensation up to certain annual limits. As a tax-qualified retirement plan, contributions (if any) made by us are deductible by us when made, and contributions and earnings on those amounts are generally not taxable to the employees until withdrawn or distributed from the 401(k) plan. Our Named Executive Officers are eligible to participate in our employee benefit plans, including our 401(k) plan, on the same basis as our other employees.

#### ***Director Compensation***

##### **Non-Employee Director Compensation**

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

Base retainer.....	\$ 25,000
Audit Committee Chair.....	\$ 15,000
Audit Committee Member.....	\$ 8,000
Compensation Committee Chair.....	\$ 10,000
Compensation Committee Member.....	\$ 5,000
Nominating and Governance Committee Chair.....	\$ 5,000
Nominating and Governance Committee Member.....	\$ 3,000

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 November 2021, each non-employee director was granted 100,000 shares of restricted stock, 50,000 of which will vest on each of (i) April 1, 2022 or, if later, the Later Date and (ii) April 1, 2023. Thereafter, directors will also receive an annual grant of 33,333 shares of restricted stock, which shares will vest on the first anniversary of grant.

#### ***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 14. Principal Accounting Fees and Services**

#### **REPORT OF THE AUDIT COMMITTEE OF THE BOARD OF DIRECTORS**

The Audit Committee oversees the Company's financial reporting process on behalf of the Board. In fulfilling its oversight responsibilities, the Audit Committee reviewed and discussed with management the audited financial statements in the Company's Form 10-K, including a discussion of the acceptability of the accounting principles, the reasonableness of significant judgments and the clarity of disclosures in the financial statements.

The Audit Committee reviewed and discussed with the independent registered public accounting firm, which is responsible for expressing an opinion on the conformity of those audited financial statements with the standards of the Public Company Accounting Oversight Board, the matters required to be discussed by Statements on Auditing Standards (SAS 61), as may be modified or supplemented, and their judgments as to the acceptability of the

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Company's accounting principles and such other matters as are required to be discussed with the Audit Committee under the standards of the Public Company Accounting Oversight Board.

In addition, the Audit Committee has discussed with the independent registered public accounting firm their independence from management and the Company, including receiving the written disclosures and letter from the independent registered public accounting firm as required by the Independence Standards Board Standard No. 1, as may be modified, or supplemented, and has considered the compatibility of any non-audit services with the auditors' independence.

The Audit Committee discussed with the Company's independent registered public accounting firm the overall scope and plans for their audit. The Audit Committee met with the independent registered public accounting firm, with and without management present, to discuss the results of their examinations and the overall quality of the Company's financial reporting.

In reliance on the reviews and discussions referred to above, the Audit Committee recommended to the Board, and the Board approved, that the audited financial statements be included in the Company's Form 10-K for the year ended May 31, 2022 for filing with the SEC.

Respectfully submitted,

The Audit Committee of the Board of Directors  
Douglas Miller, Chair  
Chuck Hastings  
Richard Nottenburg

#### INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The following table presents fees billed to the Company for professional services rendered by our independent registered public accounting firm, Marcum LLP, for the fiscal years ended May 31, 2022 and 2021:

(in thousands)	Fiscal Years Ended May 31,	
	2022	2021
Type of Fees:		
Audit fees	\$ 833	\$ 79
Audit-related fees	—	—
Tax fees	—	—
All other fees	—	—
	<u>\$ 833</u>	<u>\$ 79</u>

For the fiscal years ended May 31, 2022 and 2021, the Audit Committee approved all of the services provided by, and fees paid to, Marcum LLP.

The Audit Committee has established a policy requiring approval by it of all fees for audit and non-audit services to be provided by the Company's independent registered public accountants, prior to commencement of such services. Consideration and approval of fees generally occurs at the Committee's regularly scheduled meetings or, to the extent that such fees may relate to other matters to be considered at special meetings, at those special meetings.

#### Part IV

#### Item 15. Exhibits, Financial Statement Schedules

##### *Documents filed as part of this report*

*All financial statements:*

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<b>Index to consolidated financial statements</b>	<b>Page</b>
<a href="#">Report of Registered Independent Public Accounting Firm</a>	32
<a href="#">Consolidated Balance Sheets as of May 31, 2022 and 2021</a>	34
<a href="#">Consolidated Statements of Operations for the Annual Period Ended May 31, 2022, and 2021</a>	35
<a href="#">Consolidated Statements of Changes in Stockholders' Equity for the Annual Period ended May 31, 2022 and 2021</a>	36
<a href="#">Consolidated Statements of Cash Flows for the Annual Period ended May 31, 2022 and 2021</a>	37
<a href="#">Notes to Consolidated Financial Statements</a>	38

*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:*

<b>Exhibit No.</b>	<b>Description</b>
3.1**	<a href="#">Second Amended and Restated Articles of Incorporation, as amended from time to time</a>
3.2	<a href="#">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)</a>
4.1	<a href="#">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).</a>
4.1.1	<a href="#">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).</a>
4.1.2	<a href="#">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).</a>
4.2	<a href="#">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).</a>
4.2.1	<a href="#">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).</a>
4.2.2	<a href="#">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).</a>
4.3	<a href="#">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).</a>

4.4	<a href="#">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).</a>
4.5**	<a href="#">Description of Securities.</a>
10.1	<a href="#">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).</a>
10.2	<a href="#">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).</a>
10.3	<a href="#">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).</a>
10.4	<a href="#">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).</a>
10.5#	<a href="#">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).</a>
10.6#	<a href="#">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).</a>
10.7	<a href="#">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).</a>
10.8#	<a href="#">Service Framework Agreement, dated July 5, 2021, by and between APLD Hosting, LLC and Bitmain Technologies Limited</a>
10.9#	<a href="#">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).</a>
10.10#	<a href="#">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).</a>
10.11	<a href="#">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).</a>
10.12†	<a href="#">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).</a>
10.12.1†	<a href="#">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).</a>
10.12.2†	<a href="#">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).</a>
10.12.3†	<a href="#">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).</a>

10.13†	<a href="#">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).</a>
10.13.1	<a href="#">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).</a>
10.14#	<a href="#">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).</a>
10.15†	<a href="#">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).</a>
10.16†	<a href="#">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).</a>
10.17†	<a href="#">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).</a>
10.17.1	<a href="#">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).</a>
10.18	<a href="#">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).</a>
10.19	<a href="#">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).</a>
21.1**	<a href="#">List of Subsidiaries.</a>
23.1**	<a href="#">Consent of Marcum, LLP.</a>
24.1**	<a href="#">Power of Attorney (contained on signature page to the Company's Annual Report on Form 10-K (Registration No. 001-31968), filed with the SEC on August 29, 2022).</a>
31.1**	<a href="#">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.</a>
31.2**	<a href="#">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.</a>
31.3*	<a href="#">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.</a>
31.4*	<a href="#">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.</a>
32.1***	<a href="#">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.</a>
32.2***	<a href="#">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.</a>
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\*  
104\*

Inline XBRL Taxonomy Extension Presentation Linkbase Document.  
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 Exchange Commission on August 29, 2022 (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 Applied Blockchain, Inc. 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.

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**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 September 27, 2022.

**APPLIED BLOCKCHAIN, INC.**

By: /s/ Wes Cummins

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Name: Wes Cummins  
Title: Chief Executive Officer, Secretary and Treasurer (Principal Executive Officer)

By: /s/ David Rench

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Name: David Rench  
Title: Chief Financial Officer (Principal Financial and Principal Officer)

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Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Person</u>	<u>Capacity</u>	<u>Date</u>
<u>/s/ Wes Cummins</u> Wes Cummins	Chairperson of the Board and Director (Principal Executive Officer)	September 27, 2022
<u>*</u> Chuck Hastings	Director	September 27, 2022
<u>*</u> Kelli McDonald	Director	September 27, 2022
<u>*</u> Douglas Miller	Director	September 27, 2022
<u>*</u> Virginia Moore	Director	September 27, 2022
<u>*</u> Richard Nottenburg	Director	September 27, 2022
<u>*</u> Jason Zhang	Director	September 27, 2022

\* By: /s/ Wes Cummins  
Wes Cummins  
Attorney-In-Fact

SECTION 302 CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Wesley Cummins, certify that:

1. I have reviewed this Amendment No. 1 to the annual report on Form 10-K of Applied Blockchain, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. [Paragraph intentionally omitted];
4. [Paragraph intentionally omitted]; and
5. [Paragraph intentionally omitted].

Date: September 27, 2022

By: /s/ Wesley Cummins  
Wesley Cummins  
Chief Executive Officer and Chairman of the Board of Directors  
(Principal Executive Officer)

SECTION 302 CERTIFICATION OF CHIEF FINANCIAL OFFICER  
CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, David Rench, certify that:

1. I have reviewed this Amendment No. 1 to the annual report on Form 10-K of Applied Blockchain, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. [Paragraph intentionally omitted];
4. [Paragraph intentionally omitted]; and
5. [Paragraph intentionally omitted].

Date: September 27, 2022

By: /s/ David Rench

David Rench  
Chief Financial Officer (Principal Financial Officer)