

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

FORM 10-K

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

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2023

Commission File No. 000-27866

**374WATER INC.**

(Exact name of Registrant as specified in its charter)

Delaware

(State or other jurisdiction of  
incorporation or organization)

88-0271109

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

701 W Main Street, Suite 410, Durham, NC

(Address of principal executive offices)

27701

(Zip Code)

(919)-888-8194

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act: None

Securities registered pursuant to Section 12(g) of the Act: Common Stock, par value \$0.0001 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒ X

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 ☒ X

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 ☒ X No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).  
Yes ☒ X 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 as defined in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐  
Non-accelerated Filer ☒ X  
Emerging Growth Company ☒ X

Accelerated filer ☐  
Smaller reporting company ☒ X

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 Ex-change Act. ☐

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

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

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

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

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the stock was sold, or the average bid and ask prices of such stock equity, as of June 30, 2023, the last business day of the issuer's most recently completed second fiscal quarter: \$291,002,404.

As of March 29, 2024, the number of outstanding shares of common stock, \$0.0001 par value per share, of the registrant was 132,667,107.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement relating to its 2024 annual meeting of stockholders (the "2024 Proxy Statement") are incorporated by reference into Part III of this Annual Report on Form 10-K where indicated. The 2024 Proxy Statement will be filed with the U.S. Securities and Exchange Commission within 120 days after the end of the year to which this report relates.

374WATER INC.  
Annual Report on Form 10-K  
Year Ended December 31, 2023

INDEX

	<u>Page</u>
<b>PART I</b>	
ITEM 1. <u>BUSINESS.</u>	4
ITEM 1A. <u>RISK FACTORS</u>	12
ITEM 1B. <u>UNRESOLVED STAFF COMMENTS.</u>	34
ITEM 1C. <u>CYBERSECURITY</u>	34
ITEM 2. <u>PROPERTIES.</u>	35
ITEM 3. <u>LEGAL PROCEEDINGS.</u>	35
ITEM 4. <u>MINE SAFETY DISCLOSURES.</u>	35
<b>PART II</b>	
ITEM 5. <u>MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.</u>	36
ITEM 6. <u>SELECTED FINANCIAL DATA.</u>	37
ITEM 7. <u>MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.</u>	37
ITEM 7A. <u>QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.</u>	41
ITEM 8. <u>FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.</u>	41
ITEM 9. <u>CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.</u>	42
ITEM 9A. <u>CONTROLS AND PROCEDURES.</u>	42
ITEM 9B. <u>OTHER INFORMATION.</u>	42
<b>PART III</b>	
ITEM 10. <u>DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.</u>	43
ITEM 11. <u>EXECUTIVE COMPENSATION.</u>	43
ITEM 12. <u>SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.</u>	43
ITEM 13. <u>CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE.</u>	43
ITEM 14. <u>PRINCIPAL ACCOUNTING FEES AND SERVICES.</u>	43
<b>PART IV</b>	
ITEM 15. <u>EXHIBITS, FINANCIAL STATEMENT SCHEDULES.</u>	F-1

## JUMPSTART OUR BUSINESS STARTUPS ACT DISCLOSURE

We qualify as an "emerging growth company," as defined in Section 2(a)(19) of the Securities Act by the Jumpstart Our Business Startups Act (the "JOBS Act"). An issuer qualifies as an "emerging growth company" if it has total annual gross revenues of less than \$1.0 billion during its most recently completed fiscal year, and will continue to be deemed an emerging growth company until the earliest of:

- the last day of the fiscal year of the issuer during which it had total annual gross revenues of \$1.0 billion or more;
- the last day of the fiscal year of the issuer following the fifth anniversary of the date of the first sale of common equity securities of the issuer pursuant to an effective registration statement;
- the date on which the issuer has, during the previous three-year period, issued more than \$1.0 billion in non-convertible debt; or
- the date on which the issuer is deemed to be a "large accelerated filer," as defined in Section 240.12b-2 of the Exchange Act.

As an emerging growth company, we are exempt from various reporting requirements. Specifically, we are exempt from the following provisions:

- Section 404(b) of the Sarbanes-Oxley Act of 2002, which requires evaluations and reporting related to an issuer's internal controls;
- Section 14A(a) of the Exchange Act, which requires an issuer to seek shareholder approval of the compensation of its executives not less frequently than once every three years; and
- Section 14A(b) of the Exchange Act, which requires an issuer to seek shareholder approval of its so-called "golden parachute" compensation, or compensation upon termination of an employee's employment.

Under the JOBS Act, emerging growth companies may delay adopting new or revised accounting standards that have different effective dates for public and private companies until such time as those standards apply to private companies.

## PART I

### ITEM 1. BUSINESS.

#### *Overview*

374Water Inc. (the "Company", "374Water", "We", or "Our") offers a technology that transforms wet wastes such as sewage sludge, biosolids, food waste, hazardous and non-hazardous waste, and forever chemicals (e.g., "per-and polyfluoroalkyl substances" or "PFAS") into recoverable resources by focusing on waste as a valuable resource for water, energy, and minerals.

#### *Our Technology*

We have developed AirSCWO, a proprietary treatment system based on "supercritical water oxidation." AirSCWO leverages the unique properties of water in its supercritical phase (above 374°C and above a barometric pressure of 221 atm). The supercritical phase produces unique properties of water which when combined with air convert organic matter to energy and minerals that are safe byproducts that can be recovered and put to economically productive use. We call our systems AirSCWO, as it utilizes a combination of ambient air and the supercritical water oxidation process. Because our AirSCWO systems convert any organic material, we believe the AirSCWO systems have the capability of treating a variety of complex, hazardous and non-hazardous wet waste streams, thus creating opportunities for multiple applications in diverse market verticals on an international scale. The technology is addressing environmental challenges that the Company believes, until now, have been considered insurmountable due to science/engineering and/or cost barriers. For example, we believe our systems can treat certain types of PFAS.

## **Products and Services**

We believe AirSCWO systems have the ability to address environmental issues across multiple market verticals. Our revenue model includes both capital equipment sales and long-term service agreements. Our sales and market strategy is a combination of direct customer and channel partner sales routes, depending on the specific market and territory. Additionally, the AirSCWO systems may be sold directly to other solution providers who may integrate our equipment with other equipment as part of an integrated system and solution.

We sell AirSCWO as a modular and containerized system. The units are compact and prefabricated so that they may be cost effectively shipped, installed, and operated within the footprint of an existing plant. We are currently offering a six (6) wet ton per day throughput capacity system and anticipate beginning the manufacturing of a thirty (30) wet ton per day throughput capacity system in 2025. We also anticipate designing a two hundred (200) wet ton per day throughput capacity system in the future.

We also intend to sell, as part of a broader solution package, ancillary equipment that is required to pre-treat the inlet waste stream and post-treat a product stream, depending on the application. In some cases, to meet the AirSCWO inlet requirements (e.g., water percentage, total dissolved solids), a pre-treatment is added to our system to ensure our system performance or a post-treatment packaged system to enhance the system outputs value (e.g., carbon dioxide utilization or sequestration, minerals recovery and upgrade, and water purification). Such solutions may be developed by the Company or by its strategic partners to provide a complete solution and integrated treatment train. In addition, the Company intends to offer sales agreements for supply of parts, maintenance and repairs.

## **Human Capital and Culture**

We currently employ twenty-six full-time employees and six consultants on a full or part-time basis. Our current projections are to increase the workforce to approximately forty full-time employees in 2024 and fifty full-time employees in 2025.

We recognize and value our people as our most important asset in achieving our strategic goals and growing a great company. We are working towards a human resources strategy that will help drive the right culture, leadership, talent management, performance, reward and recognition, personal development, and ways of working vital to ensure the Company achieves its strategic goals whilst our people benefit from an exceptional experience.

Our focus areas in creating a working environment that draws out the best in our employees and allows them to fulfill their potential and support the Company to attain its goals are as follows:

- 1) Attract, identify, develop and retain high-performing talent across all areas.
- 2) Develop and support the growth of leadership.
- 3) Enable the development of a high-performance culture in which staff performance can be supported, rewarded, enhanced and managed effectively.
- 4) Foster a values-based culture focused on diversity, inclusivity, well-being and positive staff engagement.
- 5) Develop a total reward approach which is valued by staff and facilitates organizational objectives.
- 6) Provide excellent core HR, professional development and health and safety services across all business areas to enable the effective operation of the organization.

Our recruitment strategy is based on identifying top talent, predominantly via existing networks and referrals, and offering competitive remuneration packages that combine salary, benefits and equity. As we move forward our recruitment strategy will expand to wider platforms allowing outreach to a wider audience. In 2023, we hired a full-time human resources individual. We intend to apply a wide range of retention initiatives that include rewarding high-performance and opening opportunities for progression and career development. Identification of high-performing talent will be linked to succession planning and development of the future-workforce will be embedded in employee professional development schemes.

## [Table of Contents](#)

We are setting clear standards with respect to generating an open and transparent working environment in which everyone has a voice. This will invoke effective personal development discussions and provide the opportunity to conduct performance reviews supported by transparent data and open conversation.

We are dedicated to embedding Diversity, Equity and Inclusion (DE&I) as an important part of developing our culture through delivery of innovative initiatives and internal workshops, ensuring that DE&I policies touch on all aspects of the Company from recruitment practices to company behavior/operating frameworks. These policies will also be reviewed periodically as required and updated accordingly.

Moving forward we intend to deliver a total reward strategy which appropriately supports achievement of organizational aims and priorities, and will help position us as an employer of choice which employees value and understand. This will undergo periodical review to ensure we are able to attract and retain top talent in a financially sustainable way.

All of our human resource initiatives will be supported by key performance indicators to monitor their effectiveness and gain insight into gaps that can be addressed quickly and ensure our overall human resource strategy is adapted as required and maintained to a high degree.

## **Markets and Industries**

We are seeking to create a more robust and sustainable approach to waste stream management for our customers. The drivers that are facilitating adoption of our technology include but are not limited to: population growth and urbanization, increasing quantity/complexity of waste streams, climate change, carbon economics, resource scarcity, corporate sustainability targets, commodity prices, energy security and tightening regulations. The AirSCWO technology is designed to address those key market drivers and provides a complete, compact, energy efficient, and decentralized solution able to treat a broad range of waste.

The AirSCWO technology can treat diverse waste streams across different industries and market segments. We believe our technology provides a unique value proposition that will support its adoption across various markets, including, but not limited to:

- Generating value from waste by recovering clean energy in the form of heat, water, and minerals;
- Providing a highly energy efficient, compact and sustainable waste treatment option that can deliver unprecedented elimination of many environmentally persistent pollutants, e.g., PFAS, 1,4 Dioxane, microplastics, pharmaceuticals and personal care products (PPCPs), and other contaminants of emerging concern (CECs);
- Treating waste at the source thereby eliminating haulage and transportation needs and reducing greenhouse gas (GHG) emissions; and
- Offsetting methane emissions by offering a solution to waste that does not form methane as a byproduct.

One of our key markets is sludge treatment, which includes both municipal and industrial wastes. Sludge is the semi-solid by-product obtained from the treatment of residential and commercial (i.e., municipal) or industrial wastewater. Municipal sludge is typically treated in large biological treatment processes that allow for the wastewater to reside for extended periods in an air or oxygen rich environment (aerobic digestion or anaerobic digestion) that promotes biological breakdown of organic solids. This process generates a final residue known as biosolids, as it mainly consists of biological bacteria. Sludge and biosolids management are a key part of any wastewater treatment process. Those high strength streams are prime for the AirSCWO™ technology since they contain significant calorific content that can be treated effectively and self-propel the oxidation process.

The global demand for municipal and industrial sludge treatment is expected to generate revenue of above \$9.0 billion by the end of 2026, growing at a Compound Annual Growth Rate (CAGR) of around 5.7% between 2020 and 2026 (Research and Markets Report, August 2020). Growing populations and economic advancement have resulted in increased volumes of sludge, which drives the market for municipal and industrial sludge treatment.

The municipal sludge market is expected to drive the near-term growth of the Company's revenue because of increasing disposal costs, and future regulation on organic CECs (e.g PFAS, Microplastics, Pharmaceuticals). We are also targeting additional high value markets that we expect will contribute to the Company's revenue and thereby help fuel our growth plans. Table 1 below shows near-term target markets, their subsegments, and the relevant applications associated with those markets.

Table1: Representative target markets, their subsegments and applications

Key Markets	Subsegments	Applications
Industrial: manufacturing	Chemical, Pharmaceutical, Semiconductor, Food & Beverage	Hazardous and non-hazardous wastes, recalcitrant(1) organics, microplastics, PPCPs(2), CECs(3) and PFAS.
Municipal	Utilities Landfills	Sludge and biosolids, Landfill leachate(4)
Defense	Military Bases Government owned manufacturing facilities	Fuel and oil residuals, rinsates(5), AFFF(6) (PFAS)
Oil and Gas	Exploration, Extraction/Offshore & Onshore Petroleum refining	Concentrated waste streams, rinsates(5), AFFF (6)(PFAS), petroleum refining by-products
Agricultural	Farms, Slaughterhouses, Poultry houses	Manure, concentrated waste streams
Waste Management	Recycling Centers Incinerators Landfills	Landfill leachate(4), food waste, waste oils; Fats, Oil & Greases (FOG), hazardous and non-hazardous organic waste.
Sanitation Projects in developing countries	Regional centralized facilities, decentralized treatment facilities (villages, schools)	Municipal sludge and biosolids, mixed wastes
Environmental remediation and compliance	Contaminated site clean-up Wastewater treatment	Hazardous and non-hazardous wastes, recalcitrant(1) organics, CECs(3) and PFAS

- (1) Resistant to chemical decomposition; decomposing extremely slowly  
(2) Pharmaceuticals and Personal Care Products  
(3) Contaminants of Emerging Concern  
(4) Water that has percolated through a solid and leached out some of the constituents  
(5) Containing low concentrations of contaminants, resulting from the cleaning of containers, etc.  
(6) Aqueous Film Forming Foam

The markets shown represent multi billions in Total Addressable Market (TAM) value, with typical 5-year CAGRs of between 5%-8%.

## Strategy

The execution of our growth strategy includes a blend of opportunities:

### Growth Initiatives

We have sold our first commercial unit to a public agency responsible for 2.6 million people in Southern California. The AirSCWO 6 system, which is named for the 6 wet tons the unit can process per day (WMT/d) of wastewater in a 40-foot standard shipping container, is expected to be installed in the 2nd quarter of 2024. Upon successful installation, we expect to receive several additional purchase orders for our systems. Additionally, we are in the process of the design of larger capacity systems to process thirty (30) WMT/d (AirSCWO 30) and later on two hundred (200) WMT/d (AirSCWO 200), respectively. We anticipate initial sales of our thirty (30) ton system within the next twenty-four months.

## [Table of Contents](#)

We intend for the Company's growth over the next two years to be predominantly driven by sales of AirSCWO systems in the identified key markets, which we hope will lead to customer base expansion, and ultimately, with the municipal market expected to generate a significant portion of the Company's revenue. Our initial geographical focus will be North America and EMEA (to include Europe, the Middle East and Africa). Our business model includes direct sales to end-users and indirect sales via channel partners. In some markets, we believe revenue will be generated from a mix of capital equipment sales and a Service Agreement (SA), which is a paid service for waste treatment pursuant to long-term contracts. The latter will be offered through a separate financing division that we are targeting to establish in 2024 and will initially be deployed via direct end-user engagement. The financing systems to be sold via SAs will lower barriers to entry in our key markets and facilitate more rapid expansion of our client base. Examples of models to be used can include, but are not limited to: Build-Operate-Transfer (BOT) and Build-Own-Operate-Transfer (BOOT), depending on clients' preferences and limitations. We envisage that in some cases, public private partnerships (PPPs) will be established, particularly when selling to public utilities and addressing projects in developing geographies.

In addition, during the next two to three years, we are planning to conduct further product development and expand our product portfolio, which we believe will facilitate entry into new market subsegments where particularly complex waste streams require treatment. This is most relevant to some industrial manufacturing, defense, and waste management applications. Our intention is to maintain a research and development budget sufficient to attain this goal.

### [Third Party Growth Initiatives](#)

As an early-stage growth company with what we believe to be a highly differentiated technology platform, we expect to leverage strategic partnerships with larger companies that offer environmental services or execute on targeting various end markets. We are currently engaging with potential strategic partners in a variety of markets.

### **Intellectual Property**

We have designed an intellectual property strategy to ensure we maintain a competitive edge. As of December 31, 2023, we have three pending U.S. non-provisional applications and three pending Patent Cooperation Treaty (PCT) applications that cover crucial process operational aspects and improvements in system efficiencies and performance, including a next generation AirSCWO system for high strength waste stream treatment.

### **Collaborations with Strategic Partners**

#### ***Merrell Bros. Inc.***

We have an exclusive manufacturing and service agreement (the "Original M&S Agreement") in place with Merrell Bros. Fabrication, LLC, a division of Merrell Bros. Inc. ("Merrell Bros."), which is based in Kokomo, Indiana, and is a nationwide biosolids management company helping municipalities, industries and agricultural operations successfully manage and recycle biosolids. We have also entered into an agreement with Merrell Bros. where they also serve as a channel partner to facilitate our market penetration and expansion plans in the US by opening up their existing client base. The initial term of the manufacturing agreement ends July 7, 2024 with a one-year automatic renewal unless terminated by either party with at least a sixty-day notice prior to expiration.

On March 27, 2024, we executed a supplemental manufacturing and services agreement (the "Supplemental M&S Agreement") with Merrell Bros. as Merrell Bros. has indicated to us their intent to not renew the Original M&S Agreement and we have indicated our desire to relocate to a larger manufacturer facility with more square footage dedicated to expanding our manufacturing operations. Simultaneous to executing the Supplement M&S Agreement, Merrell Bros. provided us with a written non-renewal notice. Accordingly, the Original M&S Agreement will terminate on its original expiration date of July 7, 2024 and will not be renewed.

The Supplemental M&S Agreement will become effective on July 7, 2024 and will replace the Original M&S Agreement. Under the Supplemental M&S Agreement, our relationship and the manufacturing services provided by Merrell Bros. will continue on an as needed basis based on statements of work to be agreed upon by both parties to fulfill future and current manufacturing orders. The term of the Supplemental M&S Agreement is one year from July 7, 2024 with a one-year renewal upon a mutually executed written extension. Either party may terminate this Supplement M&S Agreement upon written notice of such a termination, specifying the extent to which performance of work is terminated and the effective date of termination.

We currently operate in a 9,000 square foot facility located at Merrell Bros. Our business plan includes operating in our own facility. In order for us to continue implementing our business plan, we plan to relocate to our own larger manufacturing facility, that will allow us to expand our operations and execute our strategic plan. We have identified a 50,000 square foot location that would allow us to integrate our manufacturing operations with our waste treatment laboratory and provide sufficient space for growth. We are in the process of negotiating a lease agreement and anticipate being fully operational on or before July 7, 2024 at this or a similar facility. We believe relocating to our own facility and consolidating our operations will result in operational and logistical efficiencies as well as economic savings and cost reductions by manufacturing our AirSCWO units internally.

#### ***Duke University***

We have a Sponsored Partnership Agreement with Duke University that provides access to Duke's world-class research capabilities, building on our own R&D expertise and strengthening our core development activities when needed.



## **Marketing**

Our marketing approach is multi-pronged with three areas of focus: development of information, education of end users, and thought leadership. We believe this approach is appropriate because business purchase decisions are based on bottom-line revenue impact and, increasingly, the environmental impact of its decisions. Return on investment (ROI) is a primary focus for corporate decision makers. The AirSCWO technology offers a waste treatment for the modern era and a versatile treatment tool that could address future regulation and improve resiliency.

We conduct marketing campaigns aimed at any individual(s) with control or influence on purchasing decisions. This can encompass a wide variety of titles and functions, from entry-level end-users all the way up to the C-suite.

## **Government Regulations**

Our operations and AirSCWO system may be subject to various United States federal, state and local laws and regulations and requirements governing the protection of the environment, public health and safety, and other matters. For example, the construction and operation of our AirSCWO units may require obtaining air permits from various states or, alternatively, obtaining a formal determination from a state that a permit is not required. We may also be required to obtain state and local treatment works approval to install our AirSCWO systems if a unit is connected to a system which is permitted pursuant to the United States National Pollutant Discharge Elimination Systems Act (NPDES). In the event our AirSCWO systems are used to treat metals, the resulting mineral stream may constitute heavy metals under the United States Resource Conservation and Recovery Act (the "RCRA") and require separation and regulated disposal if such heavy metals were deemed to be hazardous waste under the RCRA. If the operators of our AirSCWO™ units are treating hazardous waste, such operators may be required to obtain special hazardous waste technician training. Additionally, we are currently evaluating whether our AirSCWO systems may be regulated pursuant to the United States Occupational Safety and Health Act and thereby be subject to inspections thereunder. We intend that our operations and AirSCWO systems will be in material compliance with, and in many cases surpass, minimum standards required by applicable laws and regulations.

## **Corporate Information**

374Water Inc. is a Delaware corporation which was formed in September 2005 as PowerVerde, Inc. At that time, the Company was focused on developing, commercializing and marketing a series of unique electric generating power systems designed to produce electrical power with zero emissions or waste byproducts, based on a pressure-driven expander motor and related organic rankine cycle technology.

On April 16, 2021, the Company entered into an Agreement and Plan of Merger (the "Merger") with 374Water Inc., a privately held company based in Durham, North Carolina, ("374Water Private Company") and 374Water Acquisition Corp., a newly-formed wholly-owned subsidiary of PowerVerde.

Following the Merger, 374Water offers a disruptive technology that transforms all wet wastes such as sewage sludge, biosolids, food waste, hazardous and non-hazardous waste, and forever chemicals (e.g., PFAS, PFOS and AFFF) into recoverable resources by focusing on waste as a valuable resource for water, energy, and minerals. We are pioneers in a new era of waste management that supports a circular economy and enables organizations to achieve their environment, social, and governance (ESG) goals. Our vision is a world without waste and our mission is to help create and preserve a clean and healthy environment that sustains life.

Our principal executive offices are located at 701 W. Main Street, Suite 410, Durham, North Carolina 27701, telephone number (919) 888-8194. Our website address is [www.374water.com](http://www.374water.com).

#### **Implications of Being an Emerging Growth Company and a Smaller Reporting Company**

We qualify as an "emerging growth company," as defined in the Jumpstart Our Business Startups Act (the "JOBS Act") enacted in April 2012. An emerging growth company may take advantage of exemptions from some of the reporting requirements that are otherwise applicable to public companies. These exemptions include:

- Being permitted to present only two years of audited financial statements and only two years of related Management's Discussion and Analysis of Financial Condition and Results of Operations in this Form 10-K;
- Not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, as amended (the "Sarbanes-Oxley Act");
- Reduced disclosure obligations regarding executive compensation in our periodic reports, proxy statements and registration statements; and
- Exemptions from the requirements to hold a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

We may take advantage of these provisions until the last day of the fiscal year following the fifth anniversary of the date of the first sale of our common equity securities pursuant to a registration statement declared effective by the Securities and Exchange Commission (the "SEC"). However, if certain events occur prior to the end of such five-year period, including if we become a "large accelerated filer," our annual gross revenue exceeds \$1.235 billion, or we issue more than \$1.0 billion of non-convertible debt in any three-year period, we will cease to be an emerging growth company prior to the end of such five-year period.

In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. We have elected not to take advantage of the benefits of this exemption and our election is irrevocable. Therefore, we will not be able to take advantage of this exemption at any time in the future.

Finally, we are a "smaller reporting company" (and may continue to qualify as such even after we no longer qualify as an emerging growth company) and, accordingly, may provide public disclosure that differs from larger public companies. As a result, the information that we provide to our stockholders may be different than you might receive from other public reporting companies in which you hold equity interests.

## FORWARD-LOOKING STATEMENTS

Prospective investors are cautioned that the statements in this annual report on Form 10-K (the "Report") that are not descriptions of historical facts may be forward-looking statements that are subject to risks and uncertainties. This Report contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Such forward-looking statements are based on the beliefs of our management as well as on assumptions made by and information currently available to us as of the date of this Report. When used in this Report, the words "plan," "will," "may," "anticipate," "believe," "estimate," "expect," "intend," "project" and similar expressions, as they relate to 374Water, are intended to identify such forward-looking statements. Although 374Water believes these statements are reasonable, actual actions, operations and results could differ materially from those indicated by such forward-looking statements as a result of the risk factors included in this Report or other factors. We must caution, however, that this list of factors may not be exhaustive and that these or other factors, many of which are outside of our control, could have a material adverse effect on 374Water and our ability to achieve our objectives. All forward-looking statements attributable to 374Water or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements set forth above.

## ITEM 1A. RISK FACTORS.

You should carefully consider the following risks. These risks could materially affect our business, results of operations or financial condition, cause the trading price of our common stock to decline materially or cause our actual results to differ materially from those expected or those expressed in any forward-looking statements made by us or on our behalf. These risks are not exclusive, and additional risks to which we are subject include, but are not limited to, the factors mentioned under "Cautionary Note Regarding Forward-Looking Statements" and the risks of our businesses described elsewhere in this Report for the year ended December 31, 2023.

### Summary of Risk Factors

An investment in our company involves various risks. The following is a summary of these risks, but does not address all of the risks that we face. Additional discussion of the risks that we face can be found following this summary and should be carefully considered together with all of the other information appearing in this Report.

#### *Risks Related to Our Business and General Economic Conditions*

- A sustainable market for our products may never develop.
- We have a limited operating history with no material revenues.
- Our ability to recruit and retain qualified management.
- Our management team may not be able to successfully implement our business strategies.
- Our executive officers have other business interests.
- Our products may have defects.
- Our ability to generate revenue will depend in part on government contracts.
- Significant disruptions of our information technology systems or breaches of our data security could adversely affect our business.
- We may be unable to obtain required licenses from third parties for product development.
- We face other risks in our expected international sales.
- If we fail to manage growth or to prepare for product scalability effectively, it could have an adverse effect on our employee efficiency, product quality, working capital levels and results of operations.
- We may be adversely affected by the effects of inflation.
- We face competition in our industry, and we may be unable to attract customers and maintain a viable business.
- Our ability to treat hazardous wastes on a commercially viable basis is unproven, which could have a detrimental effect on our ability to generate or sustain revenues.
- We are required to obtain permits in different areas of the world in order to utilize our products in such regions. Our need to apply for and receive permits could substantially limit our ability to operate and grow our business.
- We may be involved in litigation matters or other legal proceedings that are expensive and time consuming.
- Developments in, and compliance with, current and future environmental and climate change laws and regulations could impact our business, financial condition or results of operations.
- If we become subject to claims relating to handling, storage, release or disposal of hazardous materials, we could incur significant cost and time to comply.
- Failure to effectively treat emerging contaminants could result in material liabilities.
- Wastewater operations entail significant risks that may impose significant costs.
- We may incur liabilities to customers as a result of warranty claims or failure to meet performance guarantees, which could reduce our profitability.
- Our operations will be subject to multiple layers of complex environmental health and safety regulation.
- Developments in, and compliance with, current and future climate change laws and regulations could impact our business, financial condition or results of operations.
- Our insurance may not provide adequate coverage.
- We may be unable to obtain or maintain insurance for our commercial products.
- Product and services liability suits, whether or not meritorious, could be brought against us.
- Our financial results depend on successful project execution and may be adversely affected by cost overruns, failure to meet customer schedules or other execution issues.
- We have inadequate capital and need for additional financing to accomplish our business and strategic plans.
- Undetected problems in our products could impair our financial results and give rise to potential product liability claims.

***Risks Related to Our Financial Position and Capital Requirements***

- Our financial results depend on successful project execution and may be adversely affected by cost overruns, failure to meet customer schedules or other execution issues.
- We have inadequate capital and need for additional financing to accomplish our business and strategic plans. Terms of subsequent financing, if any, may adversely impact your investment.
- Undetected problems in our products could impair our financial results and give rise to potential product liability claims.
- Our research and development expenses may increase in the future.

***Risks Related to Our Intellectual Property***

- We have limited protection over our trade secrets and know-how.
- We may have difficulty in protecting our intellectual property and may incur substantial costs to defend ourselves in patent infringement litigation.

***Risks Related to our Reliance on Third Parties***

- We depend on a single supplier; if our relationship with our supplier deteriorates, this could have an adverse impact on our business.
- Our suppliers may fail to deliver materials and parts according to schedules, prices, quality and volumes that are acceptable to us, or we may be unable to manage these materials and parts effectively.

***Risks Relating to our Common Stock and Capital Structure***

- The market price of our common stock historically has been highly volatile.
- Our principal stockholders, officers and directors own a significant interest in the Company.
- Because we became public by means of a merger, we may not be able to attract the attention of major brokerage firms.
- We are an "emerging growth company" and the reduced disclosure requirements applicable to emerging growth companies may make our common stock less attractive to investors.
- We do not intend to pay dividends on our common stock for the foreseeable

***Risks Related to Our Business and General Economic Conditions***

***A sustainable market for our products may never develop.***

A sustainable market for our products may never develop or may take longer to develop than we anticipate which would adversely affect our results of operations. Our products represent an emerging market, and we do not know whether our targeted customers will accept our technology or will purchase our products in sufficient quantities to allow our business to grow. To succeed, demand for our products must increase significantly in existing markets, and there must be strong demand for products that we introduce in the future.

***We have a limited operating history with no material revenues.***

Our limited operating history makes evaluating the business and future prospects difficult and may increase the risk of your investment. We have yet to generate material revenues from our business and we have not yet produced commercially viable systems. We have only created one working version of our system as a demonstration unit that operated on the campus of Duke University from 2015 and until 2022 when the unit was purchased by 374Water and relocated to Kokomo, IN. Therefore, the commercial value of our systems is uncertain. There can be no assurance that we will ever generate significant revenues or become profitable. Further, we are subject to all the risks inherent in a new business including, but not limited to: intense competition; lack of sufficient capital; loss of protection of proprietary technology and trade secrets; difficulties in commercializing our products, managing growth and hiring and retaining key employees; adverse changes in costs and general business and economic conditions; and the need to achieve product acceptance, to enter and develop new markets and to develop and maintain successful relationships with customers, third party suppliers and contractors.

***Our business and results of operations may be adversely affected if we are unable to recruit and retain qualified management.***

Our success depends, in large part, on our ability to hire and retain highly qualified people and if we are unable to do so, our business and operations may be impaired or disrupted. Specifically, the Company's Board of Directors is actively conducting a search for a permanent chief executive officer. Competition for highly qualified people is intense and there is no assurance that we will be successful in attracting or retaining replacements to fill vacant positions, successors to fill retirements or employees moving to new positions, or other highly qualified personnel. Furthermore, the search for our new chief executive officer may take longer than expected, which could negatively impact our business development.

***Our executive officers have other business interests which may limit the amount of time they can devote to our Company and create conflicts of interest.***

Our executive officers have other business interests, meaning they may not have enough time to devote to our business operations. While our officers presently possess adequate time to attend to our interests, it is possible that the demands on them from their other obligations could increase with the result that they would no longer be able to devote sufficient time to the management of our business. Jeff Quick, our interim chief executive officer and Adrienne Anderson, our chief financial officer, presently spend approximately 80% of their business time on business management services for our Company. This may lead to sporadic exploration activities and periodic interruptions of business operations and negatively impact our business development. Unforeseen events may cause this amount of time to become even less. Our officers may also have conflicts of interest as a result of their relationships with other companies.

***Our products may have defects, which could damage our reputation, decrease market acceptance of our products, cause us to lose customers and revenue and result in costly litigation or liability.***

Our products may contain defects for many reasons, including defective design or manufacture, defective material or software interoperability issues. Products as complex as those we offer, frequently develop or contain undetected defects or errors. Despite testing defects or errors may arise in our existing or new products, which could result in loss of revenue, market share, failure to achieve market acceptance, diversion of development resources, injury to our reputation, and increased service and maintenance cost. Defects or errors in our products and solutions might discourage customers from purchasing future products. Often, these defects are not detected until after the products have been installed. If any of our products contain defects or perceived defects or have reliability, quality or compatibility problems or perceived problems, our reputation might be damaged significantly, we could lose or experience a delay in market acceptance of the affected product or products and might be unable to retain existing customers or attract new customers. In addition, these defects could interrupt or delay sales. In the event of an actual or perceived defect or other problem, we may need to invest significant capital, technical, managerial and other resources to investigate and correct the potential defect or problem and potentially divert these resources from other development efforts. If we are unable to provide a solution to the potential defect or problem that is acceptable to its customers, we may be required to incur substantial product recall, repair and replacement and even litigation costs. These costs could have a material adverse effect on our business and operating results.

Furthermore, defects or malfunctioning of our products, if they were to occur, would likely result in significant damage and loss of life. These events could also lead to product recalls, safety or security alerts, or result in the removal of a product from the market, issuance of credits, warranty or liability claims or contractual damages against us. We may not be able to obtain product liability or other insurance to fully cover such risks, and our efforts to implement appropriate design, testing and manufacturing processes for our products or systems may not be sufficient to prevent such occurrences, which could have a material adverse effect on our business, results of operations and financial condition.

***Our management team may not be able to successfully implement our business strategies.***

If our management team is unable to execute on its business strategies, then our development, including the establishment of revenues and our sales and marketing activities would be materially and adversely affected. In addition, we may encounter difficulties in effectively managing the budgeting, forecasting and other process control issues presented by any future growth. We may seek to augment or replace members of our management team or we may lose key members of our management team, and we may not be able to attract new management talent with sufficient skill and experience.

***Our ability to generate revenue will depend in part on government contracts.***

We expect to derive a significant portion of our future revenues directly or indirectly from government agencies. The funding of government programs could be reduced or eliminated due to numerous factors, including geopolitical events and macroeconomic conditions that are beyond our control. Reduction or elimination of government spending under our contracts would imperil the sales of our products and may cause a negative effect on our revenues, results of operations, cash flow and financial condition.

***Significant disruptions of our information technology systems or breaches of our data security could adversely affect our business.***

A significant invasion, interruption, destruction or breakdown of our information technology systems and/or infrastructure by persons with authorized or unauthorized access could negatively impact our business and operations. We could also experience business interruption, information theft and/or reputational damage from cyberattacks, which may compromise our systems and lead to data leakage either internally or at our third-party providers. Our systems have been, and are expected to continue to be, the target of malware and other cyberattacks. Although we have invested in measures to reduce these risks, we cannot assure that these measures will be successful in preventing compromise and/or disruption of our information technology systems and related data.

***We may be unable to obtain required licenses from third parties for product development.***

We may be required to obtain licenses to patents or other proprietary rights from third parties. If we do not obtain required licenses, we could encounter delays in product development or find that the development, manufacture or sale of products requiring these licenses could be prevented in the U.S. or abroad.

***We face other risks in our expected international sales.***

We expect to derive a portion of our revenues ultimately from international sales. Changes in international, political, economic or geographic events could cause significant reductions in our revenues, which could harm our business, financial condition and results of operations. Some of the risks of doing business internationally include imposition of tariffs and other trade barriers and restrictions, political and economic instability in the countries of our customers and suppliers, changes in diplomatic and trade relationships and increasing instances of terrorism worldwide.

***If we fail to manage growth or to prepare for product scalability effectively, it could have an adverse effect on our employee efficiency, product quality, working capital levels and results of operations.***

Any significant growth in the market for our products or our entry into new markets may require an expansion of our employee base for managerial, operational, financial, and other purposes. During any period of growth, we may face problems related to our operational and financial systems and controls, including quality control and delivery and service capacities. We would also need to continue to expand, train and manage our employee base. Continued future growth will impose significant added responsibilities upon the members of management to identify, recruit, maintain, integrate, and motivate new employees. Aside from increased difficulties in the management of human resources, we may also encounter working capital issues, as we will need increased liquidity to finance the development of new products, and the hiring of additional employees. For effective growth management, we will be required to continue improving our operations, management, and financial systems and controls. Our failure to manage growth effectively may lead to operational and financial inefficiencies that will have a negative effect on our profitability. We cannot assure investors that we will be able to timely and effectively meet that demand and maintain the quality standards required by our existing and potential customers.

***We may be adversely affected by the effects of inflation.***

Inflation has the potential to adversely affect our business, results of operations, financial position and liquidity by increasing our overall cost structure, particularly if we are unable to achieve commensurate increases in the prices we charge our customers. The existence of inflation in the economy has the potential to result in higher interest rates and capital costs, supply shortages, increased costs of labor and other similar effects. As a result of inflation, we have experienced and may continue to experience, increases in our costs associated with operating our business including labor, equipment and other inputs. Although we may take measures to mitigate the impact of this inflation through pricing actions and efficiency gains, if these measures are not effective our business, results of operations, financial position and liquidity could be materially adversely affected. Even if such measures are effective, there could be a difference between the timing of when these beneficial actions impact our results of operations and when the cost inflation is incurred.

***We face competition in our industry, and we may be unable to attract customers and maintain a viable business.***

The markets for our products and services are highly competitive, with companies offering a variety of competitive products and services. We expect competition in our markets to intensify in the future as new and existing competitors introduce new or enhanced products and services that are potentially more competitive than our products and services. Our principal direct competitors in the SCWO field are General Atomic (US) and SCFI (Ireland). Several other technologies are in competition with SCWO, depending on the market sector including: anaerobic digestion, landfilling, drying and incineration, lagoon and spray-fields, lime stabilization, and others. We believe that our systems will prove much more economical with higher treatment efficiency and lower operating costs; however, there can be no assurance that we will be able to successfully compete with General Atomics, SCFI or any other competitor. Our competitors may prove more successful in offering similar systems and/or may offer alternative systems which prove to be more popular with potential customers than our system.

We believe many of our competitors and potential competitors have significant competitive advantages, including longer operating histories, ability to leverage their sales efforts and marketing expenditures across a broader portfolio of products and services, larger and broader customer bases, more established relationships with a larger number of suppliers, contract manufacturers, and channel partners, greater brand recognition, and greater financial, research and development, marketing, distribution, and other resources than we do and the ability to offer financing for projects. Our competitors and potential competitors may also be able to develop products or services that are equal or superior to ours, achieve greater market acceptance of their products and services, and increase sales by utilizing different distribution channels than we do. Some of our competitors may aggressively discount their products and services in order to gain market share, which could result in pricing pressures, reduced profit margins, lost market share, or a failure to grow market share for us. If we are not able to compete effectively against our current or potential competitors, our prospects, operating results, and financial condition could be adversely affected.

Our ability to commercialize our systems and grow and achieve profitability in accordance with our business plan will depend on our ability to satisfy our customers and withstand increasing competition by providing superior waste treatment at reasonable cost. There can be no assurance that we will be able to achieve or maintain a successful competitive position.

***Our ability to treat hazardous wastes on a commercially viable basis is unproven, which could have a detrimental effect on our ability to generate or sustain revenues.***

The technologies we use to treat sludge, biosolids and wastewater, have never been utilized on a full-scale commercial basis. Our AirSCWO™ technology remains in a research and development status. All of the tests conducted to date by us with respect to the technology have been performed in a limited scale or small commercial scale environment and the same or similar results may not be obtainable at competitive costs on a large-scale commercial basis. We have never employed our technology under the conditions or in the volumes that will be required for us to be profitable and cannot predict all of the difficulties that may arise. Accordingly, our technology may not perform successfully on a commercial basis and may never generate any revenues or be profitable. Our revenues to date are primarily from the sale of one AirSCWO unit which we anticipate delivering in the second quarter of calendar year 2024. If we are unsuccessful, at completing the AirSCWO unit and are unable to deliver on this contract it could adversely affect us.

***We are required to obtain permits in different areas of the world in order to utilize our products in such regions. Our need to apply for and receive permits could substantially limit our ability to operate and grow our business.***

Our ability to continue with our current scope of operations and expand our operations and business across the globe is subject, in certain cases, to our receiving a permit for different purposes, including the use of land. It may be difficult to receive the required permits, which may require our management team to divert its attention from other aspects of our business, or it may be more capital intensive or a more time-consuming process than expected to receive permits, either of which could increase costs and delay the launch of our products. Furthermore, if we do not comply with the requirements set forth in the permits we receive, we could lose the granted permits or not receive them at all. Should any of these events occur it could have a material adverse effect on our business and reputation, results of operations and financial position.



***We may be involved in litigation matters or other legal proceedings that are expensive and time consuming.***

We may become involved in litigation matters, including class action lawsuits and lawsuits relating to intellectual property and product liability. Any lawsuit to which we are a party, with or without merit, may result in an unfavorable judgment. We also may decide to settle lawsuits on unfavorable terms. Any such negative outcome could result in payments of substantial damages or fines, damage to our reputation, loss of rights, or adverse changes to our offerings or business practices. Any of these results could adversely affect our business. In addition, defending claims is costly and can impose a significant burden on our management.

Moreover, in the past companies that have experienced volatility in the market price of their securities have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Litigation of this type could result in substantial costs and diversion of management's attention and resources, which could seriously hurt our business. Any adverse determination in litigation could also subject us to significant liabilities.

***Developments in, and compliance with, current and future environmental and climate change laws and regulations could impact our business, financial condition or results of operations.***

Our business, operations, and product and service offerings are subject to and affected by many federal, state, local and foreign environmental laws and regulations, including those enacted in response to climate change concerns.

Increasing public and governmental awareness and concern regarding the effects of climate change has led to significant legislative and regulatory efforts to limit greenhouse gas emissions and will likely result in further environmental and climate change laws and regulations. Compliance with existing laws and regulations currently requires, and compliance with future laws is expected to continue to require, increasing operating and capital expenditures, including with respect to the design or re-design of our products in order to conform to changing environmental standards and regulations, which could impact our business, financial condition and results of operations. Furthermore, environmental laws and regulations may authorize substantial fines and criminal sanctions as well as facility shutdowns to address violations, and may require the installation of costly pollution control equipment or operational changes to limit emissions or discharges. We also incur, and expect to continue to incur, costs to comply with current environmental laws and regulations. Developments such as the adoption of new environmental laws and regulations, stricter enforcement of existing laws and regulations, violations by us of such laws and regulations, discovery of previously unknown or more extensive contamination, litigation involving environmental impacts, our inability to recover costs associated with any such developments, or financial insolvency of other responsible parties could in the future have a material adverse effect on our financial condition and results of operations.

***If we become subject to claims relating to handling, storage, release or disposal of hazardous materials, we could incur significant cost and time to comply.***

Our business activities, including our manufacturing processes and waste recycling and treatment processes, currently involve the use, treatment, storage, transfer, handling and/or disposal of hazardous materials, chemicals and wastes. These activities create a risk of significant environmental liabilities and reputational damage. Under applicable environmental laws and regulations, we could be strictly, jointly and severally liable for releases of regulated substances by us at our current or former properties or the properties of others or by other businesses that previously owned or used our current or former properties, including if such releases result in contamination of air, water or soil, or cause harm to individuals. We could also be liable or incur reputational damage if we merely generate hazardous materials or wastes, or arrange for their transportation, disposal or treatment, or we transport such materials, and they are subsequently released or cause harm.

Our business activities also create a risk of contamination or injury to our employees, customers or third parties, from the use, treatment, storage, transfer, handling and/or disposal of these materials.

In the event that our business activities result in environmental liabilities, such as those described above, we could incur significant costs or reputational damage in connection with the investigation and remediation of environmental contamination, and we could be liable for any resulting damages including natural resource damages. Such liabilities could exceed our available cash or any applicable insurance coverage we may have. Additionally, we are subject to, on an ongoing basis, federal, state and local laws and regulations governing the use, storage, handling and disposal of these materials and specified waste products. The cost of compliance with these laws and regulations may become significant and could have a material adverse effect on our business, financial condition, results of operations or prospects.

Further, we may incur costs to defend our position even if we are not liable for consequences arising out of a release of or exposure to a hazardous substance or waste, or other environmental damage. Our insurance policies may not be sufficient to cover the costs of such claims.

***Failure to effectively treat emerging contaminants could result in material liabilities.***

A number of emerging contaminants might be found in water that we treat, including PFAS, 1,4- dioxane, dinitrotoluene, perchlorate, in addition to other pathogens and hazardous substances that have the potential to cause any number of illnesses, including cholera, typhoid fever, cancer, giardiasis, cryptosporidiosis, amoebiasis and free-living amoebic infections. There is a risk that workers are exposed to these contaminants and pathogens before material is treated, the unit is not operated properly and the waste is not fully treated during the process, or there is a malfunction and waste is not properly treated creating a risk of third-party exposure to contaminants in byproducts that are generated. The potential impact of a failure to treat is difficult to predict and could lead to an increased risk of exposure to property damage, natural resource damage, personal injury or even product liability claims, increased scrutiny by federal and state regulatory agencies and negative publicity. Further, an outbreak of disease in any one of the municipal markets we serve could result in a widespread loss of customers across other such markets.

***Wastewater operations entail significant risks that may impose significant costs.***

Wastewater treatment involves various unique risks. If our treatment systems fail or do not operate properly, or if there is a spill, untreated or partially treated wastewater could discharge onto property or into nearby streams and rivers, causing various damages and injuries, including environmental damage. Liabilities resulting from such damages and injuries could materially adversely affect our business, financial condition, results of operations or prospects.

These risks could be increased by the potential physical impacts of climate change on our operations. The physical impacts of climate change are highly uncertain and would vary depending on geographical location, but could include changing temperatures, water shortages, changes in weather and rainfall patterns and changing storm patterns and intensities. Many climate change predictions, if true, present several potential challenges to water and wastewater service providers, such as increased precipitation and flooding, potential degradation of water quality and changes in demand for water services.

***We may incur liabilities to customers as a result of warranty claims or failure to meet performance guarantees, which could reduce our profitability.***

Although not currently part of our sales agreements, we anticipate that our customers will require product warranties as to the proper operation and conformance to specifications of the products we manufacture or install and performance guarantees as to any effluent produced by our equipment and services. Failure of our products to operate properly or to meet specifications of our customers or our failure to meet our performance guarantees may increase costs by requiring additional engineering resources and services, replacement of parts and equipment and frequent replacement of consumables or monetary reimbursement to a customer or could otherwise result in liability to our customers. There are significant uncertainties and judgments involved in estimating warranty and performance guarantee obligations, including changing product designs, differences in customer installation processes and failure to identify or disclaim certain variables in a customer's influent. To the extent that we incur substantial warranty or performance guarantee claims in any period, our reputation, earnings and ability to obtain future business could be materially adversely affected.

***We enter into various contracts in the normal course of our business, some or all of which may require us to indemnify the other party to the contract. In the event we have to perform under these indemnification provisions, it could have an adverse effect on our business, financial condition and results of operations.***

In the normal course of business, we may enter into agreements that contain indemnification provisions which require us to indemnify the other parties against adverse events occurring as a result of our operations. Should our obligation under an indemnification provision exceed applicable insurance coverage or if we were denied insurance coverage, our business, financial condition and results of operations could be adversely affected. Similarly, if we are relying on a third party to indemnify us and the party is denied insurance coverage, or the indemnification obligation exceeds the applicable insurance coverage and does not have other assets available to indemnify us, our business, financial condition and results of operations could be adversely affected.

***Our operations will be subject to multiple layers of complex environmental health and safety regulation.***

We are and will be subject to federal, state, local and foreign laws and regulations governing the use, storage, handling and disposal of hazardous and non-hazardous waste materials. The cost of compliance with these laws and regulations may become significant and could have a material adverse effect on our business, financial condition, results of operations or prospects. Furthermore, environmental laws and regulations may authorize substantial fines and criminal sanctions as well as facility shutdowns to address violations and may require the installation of costly pollution control equipment or operational changes to limit emissions or discharges.

We also incur, and expect to continue to incur, costs to comply with current environmental laws and regulations. Developments such as the adoption of new environmental laws and regulations, stricter enforcement of existing laws and regulations, violations by us of such laws and regulations, discovery of previously unknown or more extensive contamination, litigation involving environmental impacts, our inability to recover costs associated with any such developments, or financial insolvency of other responsible parties could in the future have a material adverse effect on our financial condition and results of operations.

***Developments in, and compliance with, current and future climate change laws and regulations could impact our business, financial condition or results of operations.***

Our business, operations, and product and service offerings are subject to and affected by many federal, state, local and foreign environmental laws and regulations, including those enacted in response to climate change concerns.

Increasing public and governmental awareness and concern regarding the effects of climate change has led to significant legislative and regulatory efforts to limit greenhouse gas emissions and will likely result in further environmental and climate change laws and regulations. Compliance with existing laws and regulations currently requires, and compliance with future laws is expected to continue to require, increasing operating and capital expenditures, including with respect to the design or re-design of our products in order to conform to changing environmental standards and regulations, which could impact our business, financial condition and results of operations.

***Our insurance may not provide adequate coverage.***

Although we maintain general and product liability, property and commercial insurance coverage, which we consider prudent, there can be no assurance that such insurance will prove adequate in the event of actual casualty losses or broader calamities such as terrorist attacks, earthquakes, financial crises, economic depressions or other catastrophic events, which are either uninsurable or not economically insurable. Any such losses could have a material adverse effect on the performance of our systems.

***We may be unable to obtain or maintain insurance for our commercial products.***

The design, development and manufacture of our products involve an inherent risk of product liability claims and associated adverse publicity. There can be no assurance we will be able to maintain insurance for any of our proposed commercial products. Such insurance is expensive, difficult to obtain and may not be available in the future on acceptable terms or at all. We are also exposed to product liability claims in the event the use of our proposed products result in injury.

***Product and services liability suits, whether or not meritorious, could be brought against us. These suits could result in expensive and time-consuming litigation, payment of substantial damages and an increase in our insurance rates.***

If any of our current or future products and services that we make or sell (including items that we source from third parties) are defectively designed or manufactured, contain defective components, are misused, have safety or quality issues, have inadequate operating guidelines, malfunctions or if someone claims any of the foregoing, whether or not meritorious, we may become subject to substantial and costly litigation. Misuse of our products by us or other operating parties or services or failing to adhere to the operating guidelines could cause significant harm to the public and the environment. The foregoing events could lead to recalls or safety alerts, result in the removal of a product or service from the market and result in product liability or similar claims being brought against us.

Any product liability claims brought against us could divert management's attention from our core business, be expensive to defend and result in sizable damage awards against us. While we maintain product liability insurance, we may not have sufficient insurance coverage for all future claims. Any product liability claims brought against us, with or without merit, could increase our product liability insurance rates or prevent us from securing continuing coverage, could harm our reputation in the industry and could reduce revenue, if any. Product and services liability claims in excess of our insurance coverage would be paid out of cash reserves, harming our financial condition and adversely affecting our results of operations.

In addition, if we expand into additional geographic markets, we may then be exposed to different and changing regulations regarding, for example, environmental impact and damages, which entail risks for compensation obligation, which may mean that we would need to update our existing insurance policy or obtain additional policies for specific geographical markets. If we do not have sufficient insurance coverage or the cost of obtaining the appropriate insurance coverage is costly, this could have a material adverse effect on our business, results of operations and financial position.

***Natural disasters and other catastrophic events beyond our control could adversely affect our business operations and financial performance.***

The occurrence of one or more natural disasters, such as fires, hurricanes, tornados, tsunamis, floods and earthquakes; geo-political events, such as civil unrest in a country in which our suppliers are located or terrorist or military activities disrupting transportation, communication or utility systems; or other highly disruptive events, such as nuclear accidents, pandemics, unusual weather conditions or cyber-attacks, could adversely affect our operations and financial performance. Such events could result, among other things, in operational disruptions, physical damage to or destruction or disruption of one or more of our properties or properties used by third parties in connection with the supply of products or services to us, the lack of an adequate workforce in parts or all of our operations and communications and transportation disruptions. These factors could also cause consumer confidence and spending to decrease or result in increased volatility in the United States and global financial markets and economy. Such occurrences could have a material adverse effect on us and could also have indirect consequences such as increases in the costs of insurance if they result in significant loss of property or other insurable damage.

**Risks Related to Our Financial Position and Capital Requirements**

***Our financial results depend on successful project execution and may be adversely affected by cost overruns, failure to meet customer schedules or other execution issues.***

A significant portion of our revenue will be derived from large projects that are technically complex and may occur over multiple years. These projects are subject to a number of significant risks, including project delays, cost overruns, changes in scope, unanticipated site conditions, design and engineering issues, incorrect cost assumptions, increases in the cost of materials and labor, safety hazards, third party performance issues, weather issues and changes in laws or permitting requirements. If we are unable to manage these risks, we may incur higher costs, liquidated damages and other liabilities to our customers, which may decrease our profitability and harm our reputation. Our continued growth will depend in part on executing a higher volume of large projects, which will require us to expand and retain our project management and execution personnel and resources.

***We have inadequate capital and need for additional financing to accomplish our business and strategic plans. Terms of subsequent financing, if any, may adversely impact your investment.***

We will need to raise substantial additional funds in order to execute our business plan. Without such additional funds, we may have to cease operations or scale back our activities. Our ultimate success may depend on our ability to raise additional capital. In the absence of additional financing or significant revenues and profits, we will have to approach our business plan from a much different and much more restricted direction, attempting to secure additional funding sources to fund our growth, borrowing money from lenders or elsewhere or to take other actions to attempt to provide funding.

We may have to engage in common equity, debt, or preferred stock financings in the future. Your rights and the value of your investment in the common stock could be reduced by the dilution caused by future equity issuances. Interest on debt securities could increase costs and negatively impact operating results. In the event we are permitted to issue preferred stock pursuant to the terms of our articles of incorporation, preferred stock could be issued in series from time to time with such designation, rights, preferences, and limitations as needed to raise capital. The terms of preferred stock would be more advantageous to those investors than to the holders of common stock. In addition, if we need to raise more equity capital from the sale of common stock, institutional or other investors may negotiate terms possibly less favorable to us, and thereby adversely impact your investment.

***Undetected problems in our products could impair our financial results and give rise to potential product liability claims.***

If there are defects in the design, production or testing of our products and systems, we could face substantial repair, replacement or service costs, potential liability and damage to our reputation. Defects or malfunctioning of our products, if they were to occur, would likely result in significant damage and loss of life. These events could also lead to product recalls, safety or security alerts, or result in the removal of a product from the market, issuance of credits, warranty or liability claims or contractual damages against us. We may not be able to obtain product liability or other insurance to fully cover such risks, and our efforts to implement appropriate design, testing and manufacturing processes for our products or systems may not be sufficient to prevent such occurrences, which could have a material adverse effect on our business, results of operations and financial condition.

***Our research and development expenses may increase in the future.***

Our research and development expenses primarily relate to our efforts to increase the output, durability and commercial viability of our technology. The results of such research and development can be unforeseen and undesirable and therefore our forecasted costs related to such research and development are associated with great uncertainty. We expect that our research and development expenses will increase in the future. Unforeseen research and development results could require us to undertake supplementary research and development at significant costs or cause us to pause or stop research and development efforts. A delay or non-existent launch of our technology or an insufficient investment (or overspend on such expenditure) could have a material adverse effect on our business, results of operations and financial position.

## **Risks Related to Our Intellectual Property**

### ***We have limited protection over our trade secrets and know-how.***

Although we have entered into confidentiality and invention agreements with our key personnel, there can be no assurance that these agreements will be honored or that we will be able to protect our rights to our non-patented trade secrets and know-how effectively. There can be no assurance that competitors will not independently develop equivalent or superior proprietary information and techniques or otherwise gain access to our trade secrets and know-how.

### ***We may have difficulty in protecting our intellectual property and may incur substantial costs to defend ourselves in patent infringement litigation.***

At this time, we rely primarily on a combination of patents, trade secrets, copyright and trademark laws, and confidentiality procedures to protect our proprietary technology, which is our principal asset.

Our ability to compete effectively will depend to a large extent on our success in protecting our proprietary technology, both in the United States and abroad. There can be no assurance that (i) any patents that we apply for will be issued, (ii) we will ever obtain the rights to any patents covering the technology on which our current systems are based, (iii) any patents issued will not be challenged, invalidated, or circumvented, (iv) we will have the financial resources to enforce any such patents or (v) any patent rights granted will provide any competitive advantage. We could incur substantial costs in obtaining patent coverage and defending any patent infringement suits or in asserting our patent rights, including those granted by third parties, and we might not be able to afford such expenditures.

We do not know whether any of our current or future patent applications, if any, will result in the issuance of any patents. Even issued patents may be challenged, invalidated or circumvented. Patents may not provide a competitive advantage or afford protection against competitors with similar technology. Competitors or potential competitors may have filed applications for, or may have received patents and may obtain additional and proprietary rights to compounds or processes used by or competitive with ours. Both the patent application process and the process of managing patent disputes can be time-consuming and expensive. Competitors may be able to design around our patents or develop products which provide outcomes which are comparable or may even be superior to ours.

In the event a competitor infringes upon our intellectual property rights, enforcing those rights may be costly, uncertain, difficult and time consuming. Even if successful, litigation to enforce our intellectual property rights or to defend our patents against challenge could be expensive and time consuming and could divert our management's attention. We may not have sufficient resources to enforce our intellectual property rights or to defend our patent rights against a challenge. The failure to obtain patents and/or protect our intellectual property rights could have a material and adverse effect on our business, results of operations and financial condition.



In addition, we have taken steps to protect our intellectual property and proprietary technology, including entering into confidentiality agreements and intellectual property assignment agreements with all of our executive officers, employees, consultants and advisors, however, such agreements may not provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure or other breaches of the agreements. Furthermore, the laws of foreign countries may not protect our intellectual property rights to the same extent as do the laws of the United States. Moreover, the following can limit our ability to protect our intellectual property and technology:

- intellectual property laws in certain jurisdictions may be relatively ineffective;
- detecting infringements and enforcing proprietary rights may divert management's attention and company resources;
- contractual measures such as non-disclosure agreements and confidentiality provisions may afford only limited protection;
- any patents we may receive will expire, thus providing competitors access to the applicable technology;
- competitors may independently develop products that are substantially equivalent or superior to our products or circumvent our intellectual property rights; and
- competitors may register patents in technologies relevant to our business areas;

In addition, various parties may assert infringement claims against us. The cost of defending against infringement claims could be significant, regardless of whether the claims are valid. If we are not successful in defending such claims, we may be prevented from the use or sale of certain of our products, or liable for damages and required to obtain licenses, which may not be available on reasonable terms, any of which may have a material adverse impact on our business, results of operation or financial condition.

***We may become subject to claims of infringement or misappropriation of the intellectual property rights of others, which could prohibit us from developing our products, require us to obtain licenses from third parties or to develop non-infringing alternatives and subject us to substantial monetary damages.***

Third parties could, in the future, assert infringement or misappropriation claims against us with respect to products we develop. Whether a product infringes a patent or misappropriates other intellectual property involves complex legal and factual issues, the determination of which is often uncertain. Therefore, we cannot be certain that we have not infringed the intellectual property rights of others. Our potential competitors may assert that some aspect of our product infringes their patents. Because patent applications may take years to issue, there also may be applications now pending of which we are unaware that may later result in issued patents upon which our products could infringe. There also may be existing patents or pending patent applications of which we are unaware upon which our products may inadvertently infringe.

Any infringement or misappropriation claim could cause us to incur significant costs, place significant strain on our financial resources, divert management's attention from our business and harm our reputation. If the relevant patents in such a claim were upheld as valid and enforceable and we were found to infringe them, we could be prohibited from selling any product that is found to infringe unless we could obtain licenses to use the technology covered by the patent or are able to design around the patent. We may be unable to obtain such a license on terms acceptable to us, if at all, and we may not be able to redesign our products to avoid infringement. A court could also order us to pay compensatory damages for such infringement, plus prejudgment interest and could, in addition, treble the compensatory damages and award attorney fees. These damages could be substantial and could harm our reputation, business, financial condition and operating results. A court also could enter orders that temporarily, preliminarily or permanently enjoin us and our customers from making, using, or selling products, and could enter an order mandating that we undertake certain remedial activities. Depending on the nature of the relief ordered by the court, we could become liable for additional damages to third parties.

We also employ individuals who were previously employed at other companies in our industry, including our competitors or potential competitors. Although we try to ensure that our employees, consultants and independent contractors do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that we or our employees, consultants or independent contractors have inadvertently or otherwise used or disclosed intellectual property, including trade secrets or other proprietary information, of any of our employee's former employer or other third parties. Litigation may be necessary to defend against these claims. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel, which could adversely impact our business. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees.

***Even if we are issued patents, because the patent positions of our technology are complex and uncertain, we cannot predict the scope and extent of patent protection for our products.***

Any patents that may be issued to us will not ensure the protection of our intellectual property for a number of reasons, including without limitation the following:

- any issued patents may not be broad or strong enough to prevent competition from other products including identical or similar products;
- if we are not issued patents or if issued patents expire, there would be no protections against competitors making generic equivalents;
- there may be prior art of which we are not aware that may affect the validity or enforceability of a patent claim;
- there may be other patents existing in the patent landscape that will affect our freedom to operate;
- if our patents are challenged, a court or relevant tribunal could determine that they are not valid or enforceable;
- a court could determine that a competitor's technology or product does not infringe our patents even if we believe it does;
- our patents could irretrievably lapse due to failure to pay fees or otherwise comply with regulations, or could be subject to compulsory licensing; and
- if we encounter delays in our development, the period of time during which we could market our products under patent protection would be reduced.

***We may be subject to claims challenging the inventorship or ownership of our patents and other intellectual property.***

We may be subject to claims that former employees, collaborators or other third parties have an interest in our patents or other intellectual property as an inventor or co-inventor. For example, we may have inventorship disputes arise from conflicting obligations of consultants or others who are involved in developing our products. Litigation may be necessary to defend against these and other claims challenging inventorship. If we fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, valuable intellectual property. Such an outcome could have a material adverse effect on our business. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees.

We employ individuals or hire consultants who are employed by or otherwise affiliated with universities and have commitments or obligations under employment agreements, policies, and other contracts with those universities. Failure by these employees and consultants to comply with their commitments or obligations to any university may result in disputes over our intellectual property or technology. The resolution of any dispute that may arise could narrow what we believe to be the scope of our rights to the relevant intellectual property or technology, which could adversely impact our business.

***We may need to depend on certain technologies that are licensed to us. We would not control these technologies and any loss of our rights to them could prevent us from selling our products.***

We have entered into license agreements with third parties for certain licensed technologies that are not currently utilized in the systems we market but may be in the future. In addition, we may in the future elect to license third-party intellectual property to further our business objectives and/or as needed for freedom to operate our systems. We do not and will not own the patents or patent applications that are a subject of these licenses. Our rights to use these technologies and employ the inventions claimed in the licensed patents and patent applications are or will be subject to the continuation of and compliance with the terms of those licenses.

In some cases, we do not or may not control the prosecution, maintenance, or filing of the patents or patent applications to which we hold licenses, or the enforcement of these patents against third parties. As a result, we cannot be certain that drafting or prosecution of the licensed patents and patent applications by the licensors have been or will be conducted in compliance with applicable laws and regulations or will result in valid and enforceable patents and other intellectual property rights.

Moreover, disputes may arise regarding intellectual property subject to a licensing agreement, including:

- the scope of rights granted under the license agreement and other interpretation-related issues;
- the extent to which our product candidates, technology and processes infringe on intellectual property of the licensor that is not subject to the licensing agreement;
- our diligence obligations under the license agreement and what activities satisfy those diligence obligations;
- the inventorship and ownership of inventions and know-how resulting from the joint creation or use of intellectual property by our licensors and us and our partners; and
- the priority of invention of patented technology.

In addition, the agreements under which we currently license intellectual property or technology from third parties are complex, and certain provisions in such agreements may be susceptible to multiple interpretations. The resolution of any contract interpretation disagreement that may arise could narrow what we believe to be the scope of our rights to the relevant intellectual property or technology, or increase what we believe to be our financial or other obligations under the relevant agreement, either of which could have a material adverse effect on our business, financial condition, results of operations, and prospects. Moreover, if disputes over intellectual property that we have licensed prevent or impair our ability to maintain our current licensing arrangements on commercially acceptable terms, we may be unable to successfully develop and commercialize the affected product candidates, which could have a material adverse effect on our business, financial conditions, results of operations, and prospects.

#### ***Risks Related to our Reliance on Third Parties***

***We have historically been working with and depending on a single manufacturer. If our relationship with our manufacturer deteriorates, or if we are unable to adequately assume the fabrication and manufacturing services internally, this could have an adverse impact on our business, results of operations and financial results.***

In July 2021, we entered into the Original M&S Agreement to fabricate and manufacture the AirSCWO systems with Merrell Bros. with an initial three year term and one-year renewal unless terminated by either party with sixty-day written notice. Terry Merrell, one of the owners of Merrell Bros., is on our board of directors. As of December 31, 2023, Merrell Bros. or their affiliates own less than 5% of the outstanding common stock.

On March 27, 2024, we executed a supplemental manufacturing and services agreement (the "Supplemental M&S Agreement") with Merrell Bros. as Merrell Bros. has indicated to us their intent to not renew the Original M&S Agreement and we have indicated our desire to relocate to a larger manufacturer facility with more square footage dedicated to expanding our manufacturing operations. Simultaneous to executing the Supplement M&S Agreement, Merrell Bros. provided us with a written non-renewal notice. Accordingly, the Original M&S Agreement will terminate on its original expiration date of July 7, 2024 and will not be renewed. Terry Merrell plans to continue on the board of directors after the expiration of the Original M&S Agreement.

The Supplemental M&S Agreement will become effective on July 7, 2024 and will replace the Original M&S Agreement. Under the Supplemental M&S Agreement, our relationship and the manufacturing services provided by Merrell Bros. will continue on an as needed basis based on statements of work to be agreed upon by both parties to fulfill future and current manufacturing orders. The term of the Supplemental M&S Agreement is one year from July 7, 2024 with a one-year renewal upon a mutually executed written extension. Either party may terminate this Supplement M&S Agreement upon written notice of such a termination, specifying the extent to which performance of work is terminated and the effective date of termination.

Over the past year in preparation of moving into our own manufacturing facility, we have taken the following steps to reduce our reliance on Merrell Bros. as follows:

- We have taken over the subcontractor relationships and management that Merrell Bros. had historically managed for us.
- We hired a Chief Operating Officer ("COO") with significant integration and manufacturing experience.
- We have hired and continue to hire personnel with specialized skills, such as electrical designers and master electricians.
- We have largely taken over the contracting, management and construction tasks previously performed by Merrell Bros.
- We have identified a 50,000 square foot location that would allow us to integrate our manufacturing operations with our waste treatment laboratory and provide sufficient space for growth. We anticipate being fully operational on or before July 7, 2024 at this or a similar facility.

We have been using Merrell Bros. as a single point of contact for integration and as a manufacturer for our frames, containers, and equipment brackets on our AirSCWO systems. Merrell Bros. has used their own personnel and other third-party vendors for specific tasks such as pipe fitting and electrical integration. We have maintained control and development of all designs, software, operating systems and choice of component parts and materials. Currently, we manage, with the assistance of Merrell Bros., our own inventory and procurement process and have recently been primarily relying on Merrell Bros. for warehousing and physical space. Due to the steps, we have taken over the past year to reduce our reliance on Merrell Bros., we are prepared to perform the integration and manufacturing services previously provided by Merrell Bros. at our own facility. By relocating to our own facility and manufacturing our AirSCWO units internally, we anticipate both operational and logistical efficiencies as well as economic savings and cost reductions.

To meet anticipated market demand, we may be required to invest substantial additional funds and hire and retain the technical personnel who have the necessary fabrication and manufacturing experience to continue growing our operations.

However, if we are unable to adequately assume the fabrication and manufacturing services provided by Merrell Bros. or are unsuccessful in relocating to our own facility, this could have an adverse impact on our business or delay the production of our AirSCWO systems.

***Our suppliers may fail to deliver materials and parts according to schedules, prices, quality and volumes that are acceptable to us, or we may be unable to manage these materials and parts effectively.***

Our products contain materials and parts purchased globally from hundreds of suppliers, including single-source direct suppliers, which exposes us to potential component shortages or delays. Unexpected changes in business conditions, materials pricing, labor issues, wars such as the current conflict in Ukraine, trade policies, natural disasters, health epidemics, trade and shipping disruptions, port congestions and other factors beyond our or our suppliers' control could also affect these suppliers' ability to deliver components to us or to remain solvent and operational. Additionally, if our suppliers do not accurately forecast and effectively allocate production or if they are not willing to allocate sufficient production to us, it may reduce our access to components and require us to search for new suppliers. The unavailability of any component or supplier could result in production delays, idle manufacturing facilities, product design changes and loss of access to important technology and tools for producing and supporting our products, as well as impact the capacity of our AirSCWO™ systems. Product design changes by us may also require us to procure additional components in a short amount of time. Our suppliers may not be willing or able to sustainably meet our timelines or our cost, quality and volume needs, or to do so may cost us more, which may require us to replace them with other sources. While we believe that we will be able to secure additional or alternate sources for most of our components, there is no assurance that we will be able to do so quickly or at all.

As we scale production of our AirSCWO™ systems, we will also need to accurately forecast, purchase, warehouse and transport components at high volumes to our manufacturing facilities. If we are unable to accurately match the timing and quantities of component purchases to our actual needs or successfully implement automation, inventory management and other systems to accommodate the increased complexity in our supply chain and parts management, we may incur unexpected production disruption, storage, transportation and write-off costs, which may harm our business and operating results.

***Failure by third parties to supply or manufacture components of our products or to deploy our systems timely or properly could adversely affect our business, financial condition and results of operations.***

We have been and expect to continue to be highly dependent on third parties to supply and manufacture components of our technology. If, for any reason, our third-party manufacturers or vendors are not willing or able to provide us with components or supplies in a timely fashion, or at all, our ability to manufacture and sell many of our products could be impaired, which, in turn, could have a material adverse effect on our business, results of operations and financial position.

We do not have long-term contracts with all of our third-party suppliers and manufacturers or vendors. Therefore, if we do not develop ongoing relationships with those vendors located in different regions, we may not be successful at controlling unit costs as our manufacturing volume increases. We may not be able to negotiate new arrangements with these third parties on acceptable terms, or at all.

In addition, we rely on third parties, under our oversight, for the deployment and installation of our AirSCWO technology. For example, the manufacture, assembly and installation of the hydraulic, control and automation and electrical sub-systems of our AirSCWO technology are performed by third-party suppliers. The mechanical sub-system is installed (moored) at the relevant project site by third-party engineering service providers. If these third parties do not properly manufacture, assemble, and install our AirSCWO technology and sub-systems, or otherwise do not perform adequately, or if we fail to recruit and retain third parties to deploy our systems in particular geographic areas, our business, financial condition and results of operations could be adversely affected.

***Risks Relating to our Common Stock and Capital Structure***

***The market price of our common stock historically has been highly volatile and is likely to continue to be volatile, and you could lose all or part of your investment.***

The market price of our common stock has been volatile and could be subject to wide fluctuations in response to various factors, some of which are beyond our control. In addition to the factors discussed in this "Risk Factors" section and elsewhere in this Annual Report, these factors include:

- Inability to obtain additional capital;
- Failure to meet or exceed financial or operational projections we may provide to the public;
- Failure to meet or exceed the financial or operational projections of the investment community;
- Significant acquisitions, strategic partnerships, joint ventures or capital commitments by us or our competitors;
- Additions or departures of key management personnel;
- Significant lawsuits, including shareholder litigation;
- If securities or industry analysts issue an adverse or misleading opinion regarding our common stock;
- Changes in market valuations of similar companies;
- General market or macroeconomic conditions;
- Sales of shares of our common stock by us or our shareholders in the future; and
- Trading volume of our common stock.

In addition, companies trading in the stock market in general, and on the Nasdaq Capital Market, have experienced extreme price and volume fluctuations, and we have in the past experienced volatility that has been unrelated or disproportionate to our operating performance. From January 1, 2023 through December 31, 2023 the closing price of our common stock has ranged between \$1.01 and \$4.94 per share. Broad market and industry factors may negatively affect the market price of our common stock, regardless of our actual operating performance.

Further, on some occasions, our share price may be, or may be purported to be, subject to "short squeeze" activity. A "short squeeze" is a technical market condition that occurs when the price of a stock increases substantially, forcing market participants who had taken a position that its price would fall (i.e., who had sold the stock "short"), to buy it, which in turn may create a significant, short-term demand for the stock not for fundamental reasons, but rather due to the need for such market participants to acquire the stock in order to forestall the risk of even greater losses. A "short squeeze" condition in the market for a stock can lead to short-term conditions involving very high volatility and trading that may or may not track fundamental valuation models.

In addition, in the past, class action litigation has often been instituted against companies whose securities experienced periods of volatility in market price. Securities litigation brought against us following volatility in the price of our common stock, regardless of the merit or ultimate results of such litigation, could result in substantial costs, which would hurt our financial condition and operating results and divert management's attention and resources from our business.

***The interests of our principal stockholders, officers and directors, who collectively beneficially own approximately 55% of our stock, may not coincide with yours and such stockholders will have the ability to control decisions with which you may disagree.***

As of December 31, 2023, our principal stockholders, officers and directors beneficially owned approximately 55% of our common stock and will continue to own a significant percentage of our common stock even if our current at-the-market offering is successful. As a result, our principal stockholders, officers and directors will have the ability to control matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. In addition, this concentration of ownership may delay or prevent a change in control of the Company and make some future transactions more difficult or impossible without the support of our controlling stockholders. The interests of such stockholders may not coincide with your interests or the interests of other stockholders.

***Because we became public by means of a merger, we may not be able to attract the attention of major brokerage firms.***

There may be risks associated with us becoming public through a merger. Securities analysts of major brokerage firms and securities institutions may not provide coverage of us because there were no broker-dealers who sold our stock in a public offering that would be incentivized to follow or recommend the purchase of our common stock. The absence of such research coverage could limit investor interest in our common stock, resulting in decreased liquidity. No assurance can be given that established brokerage firms will, in the future, want to cover our securities or conduct any secondary offerings or other financings on our behalf.

***We are an "emerging growth company" and the reduced disclosure requirements applicable to emerging growth companies may make our common stock less attractive to investors.***

The JOBS Act permits "emerging growth companies" like us to rely on some of the reduced disclosure requirements that are already available to smaller reporting companies. As long as we qualify as an emerging growth company or a smaller reporting company, we would be permitted to omit the auditor's attestation on internal control over financial reporting that would otherwise be required by the Sarbanes -Oxley Act, as described above, and are also exempt from the requirement to submit "say-on-pay", "say-on-pay frequency" and "say-on-parachute" votes to our stockholders and may avail ourselves of reduced executive compensation disclosure that is already available to smaller reporting companies.

We will cease to be an emerging growth company upon the earliest of (i) the last day of the fiscal year during which we had total annual gross revenues of \$1.235 billion (as indexed for inflation); (ii) the last day of the fiscal year following the fifth anniversary of the date of the first sale of our common equity securities pursuant to a registration statement declared effective by the SEC; (iii) the date on which we have, during the previous 3- year period, issued more than \$1 billion in non-convertible debt; or (iv) the date on which we are deemed to be a 'large accelerated filer,' as defined by the SEC, which would generally occur upon our attaining a public float of at least \$700 million. Until such time, however, we cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile and could cause our stock price to decline.

***We do not intend to pay dividends on our common stock for the foreseeable future.***

We currently intend to retain our future earnings to finance the development and expansion of our business and, therefore, do not intend to pay cash dividends on our common stock for the foreseeable future. The timing, declaration, amount and payment of future dividends to stockholders will fall within the discretion of our board of directors. Our board of directors' decisions regarding the payment of future dividends will depend on many factors, including our financial condition, earnings, capital requirements of our business and covenants associated with debt obligations, as well as legal requirements, regulatory constraints, industry practice and other factors that our board of directors deem relevant. There can be no assurance that we will pay a dividend in the future or continue to pay any dividend if we do commence paying dividends.

***If we fail to maintain an effective system of internal controls over financial reporting, we may not be able to accurately report our financial results or prevent fraud and our business may be harmed and our stock price may be adversely impacted.***

Effective internal controls over financial reporting are necessary for us to provide reliable financial reports and to effectively prevent fraud. Any inability to provide reliable financial reports or to prevent fraud could harm our business. The Sarbanes-Oxley Act requires management to evaluate and assess the effectiveness of our internal controls over financial reporting. In order to comply with the requirements of the Sarbanes-Oxley Act, we are required to continuously evaluate and, where appropriate, enhance our policies, procedures and internal controls. If we fail to maintain the adequacy of our internal controls over financial reporting, we could be subject to litigation or regulatory scrutiny and investors could lose confidence in the accuracy and completeness of our financial reports. We cannot assure you that in the future we will be able to fully comply with the requirements of the Sarbanes- Oxley Act or that management will conclude that our internal control over financial reporting is effective. If we fail to fully comply with the requirements of the Sarbanes-Oxley Act, our business may be harmed and our stock price may decline. Additionally, as long as we remain an "emerging growth company," we will not be required to have our independent registered public accounting firm formally assess our internal controls over financial reporting.



***If securities or industry analysts do not publish research about our business, or publish negative reports about our business, our share price and trading volume could decline.***

The trading market for our common stock, to some extent, may at some point depend on the research and reports that securities or industry analysts publish about our business. We do not have any control over these analysts. If one or more of the analysts elect to cover us and downgrade our shares or lower their opinion of our shares, our share price would likely decline. If one or more of these analysts elect to cover us and subsequently cease coverage of the Company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our share price or trading volume to decline.

***Future sales or potential sales of our common stock in the public market could cause our share price to decline.***

If the existing holders of our common stock, particularly our directors and officers, sell a large number of shares, they could adversely affect the market price for our common stock. We have an at-the-market equity offering under which we may issue up to \$100 million of common stock and under which we commenced selling shares at the end of January 2023 and successfully raised approximately \$13.4 million of net proceeds in 2023, and which will remain available to us in the future. Sales of substantial amounts of our common stock in the public market, or the perception that these sales could occur, could cause the market price of our common stock to decline.

***We incur costs as a result of operating as a public company, and our management will be required to devote substantial time to new compliance initiatives.***

As a public reporting company, we incur significant legal, accounting and other expenses. The Sarbanes-Oxley Act and rules subsequently implemented by the SEC, have imposed various requirements on public companies, including establishment and maintenance of effective disclosure and financial controls and corporate governance practices. Our management and other personnel will need to devote a substantial amount of time to these compliance initiatives. Moreover, these rules and regulations will entail significant legal and financial compliance costs and will make some activities more time consuming and costly. For example, we expect that these rules and regulations may make it difficult and expensive for us to obtain director and officer liability insurance, and we may be required to accept low policy limits and coverage.

***Provisions in our Amended and Restated Certificate of Incorporation and Bylaws and of Delaware law may prevent or delay an acquisition of the Company, which could decrease the trading price of our common stock.***

Several provisions of our Amended and Restated Certificate of Incorporation, Bylaws and Delaware law may discourage, delay or prevent a merger or acquisition that stockholders may consider favorable. These include provisions that:

- Permit us to issue blank check preferred stock as more fully described under "Description of Our Capital Stock Anti-Takeover Effects of Various Provisions of Delaware Law and Our Amended and Restated Articles of Incorporation and Bylaws";
- Require stockholders to follow certain advance notice and disclosure requirements in order to propose business or nominate directors at an annual or special meeting; and
- Limit our ability to enter into business combination transactions with certain stockholders.

These and other provisions of our Amended and Restated Certificate of Incorporation, Bylaws and Delaware law may discourage, delay or prevent certain types of transactions involving an actual or a threatened acquisition or change in control of us, including unsolicited takeover attempts, even though the transaction may offer our stockholders the opportunity to sell their shares of our common stock at a price above the prevailing market price. See "Description of Our Capital Stock Anti-Takeover Effects of Various Provisions of Delaware Law and Our Amended and Restated Articles of Incorporation and Bylaws" for more information.

#### **ITEM 1B. UNRESOLVED STAFF COMMENTS.**

None.

#### **ITEM 1C. CYBERSECURITY**

##### **Cybersecurity Risk Management and Strategy**

We have developed and implemented a cybersecurity risk management program intended to protect the confidentiality, integrity, and availability of our critical systems and information.

We have implemented a number of security measures designed to protect its systems and data, including firewalls, antivirus and malware detection tools, patches, log monitors, routine back-ups, system audits, system hardening, penetration testing and privileged access session management. In addition, we have continued its efforts to migrate its platforms to cloud-based computing, which is designed to further strengthen its security posture.

Our cybersecurity risk management program is integrated into our overall enterprise risk management program and shares common methodologies, reporting channels, and governance processes that apply across the enterprise risk management program to other legal, compliance, strategic, operational, and financial risk areas.

Our cybersecurity risk management program includes the following:

- risk assessments designed to help identify material cybersecurity risks to our critical systems, information, products, services, and our broader enterprise IT environment;
- a security team principally responsible for managing (1) our cybersecurity risk assessment processes, (2) our security controls, and (3) our response to cybersecurity incidents;
- the use of external service providers, where appropriate, to assess, test, or otherwise assist with aspects of our security controls;
- cybersecurity awareness training of our employees, incident response personnel, and senior management; and
- a cybersecurity incident response plan that includes procedures for responding to cybersecurity incidents.

There can be no assurance that our cybersecurity risk management program and processes, including our policies, controls or procedures, will be fully implemented, complied with or effective in protecting our systems and information.

#### **Cybersecurity Governance**

Our Board considers cybersecurity risks as part of its risk oversight function and has delegated to the Audit Committee oversight of cybersecurity and other information technology risks.

The Audit Committee oversees management's implementation of our cybersecurity risk management program and receives updates on the cybersecurity risk management program from management at least annually. In addition, management updates the Audit Committee regarding any material or significant cybersecurity incidents, as well as incidents with lesser impact potential as necessary.

The Audit Committee reports to the full Board annually regarding cybersecurity.

#### **Ongoing Risks**

We have not experienced any material cybersecurity incidents. We have not identified risks from known cybersecurity threats, including as a result of any prior cybersecurity incidents, that have materially affected us, including our operations, business strategy, results of operations, or financial condition.

#### **Incident Response and Assessment Policies and Procedures**

We align with industry-standard cybersecurity frameworks designed to protect the company and customer data from unintentional disclosure, cybersecurity events, and other threats of all severity levels. As part of our alignment with these frameworks we are in the process of implementing a Cybersecurity Incident Response Plan that outlines actions to be taken after identifying a suspected information security breach and the people responsible for managing those actions. Additionally, this plan will outline communication responsibilities during incidents of all severity levels.

#### **ITEM 2. PROPERTIES.**

None.

#### **ITEM 3. LEGAL PROCEEDINGS.**

Plaintiffs, Peter Somers and Peter Schalken, filed a lawsuit against Defendants 374Water and Computershare in the United States District Court for the District of Delaware, C.A. No. 23- 969-JLH (the "Lawsuit") asserting claims for negligence, conversion, breach of contract, breach of the implied covenant of good faith and fair dealing, breach of fiduciary duty (against 374Water only), violations of state securities laws, and violations of 42. U.S.C. § 1983, relating to the alleged escheatment of Plaintiffs' shares of PowerVerde stock to the State of Delaware. The Lawsuit alleged damages in the combined amount of \$562,500. 374Water and Computershare deny the allegations in the Lawsuit and specifically deny any wrongdoing or liability regarding the claims alleged in the Lawsuit. A settlement has been agreed to in principle which involves providing Plaintiffs certain stock options. However, under the terms of the current settlement, no money would be paid to Plaintiffs by 374Water.

#### **ITEM 4. MINE SAFETY DISCLOSURES.**

Not applicable.

**PART II****ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.**

Our common stock is traded on The Nasdaq Capital Market under the symbol "SCWO". As of March 29, 2024, there were 132,667,107 holders of record of our common stock. The following table sets forth the range of high and low sales prices for the Company stock for the periods indicated.

<b>Period Beginning</b>	<b>Period Ending</b>	<b>High</b>	<b>Low</b>
January 1, 2022	March 31, 2022	\$ 4.90	\$ 2.67
April 1, 2022	June 30, 2022	\$ 4.09	\$ 2.18
July 1, 2022	September 30, 2022	\$ 4.00	\$ 1.80
October 1, 2022	December 31, 2022	\$ 3.72	\$ 2.50
January 1, 2023	March 31, 2023	\$ 4.74	\$ 2.59
April 1, 2023	June 30, 2023	\$ 4.94	\$ 2.27
July 1, 2023	September 30, 2023	\$ 2.25	\$ 1.23
October 1, 2023	December 31, 2023	\$ 1.81	\$ 1.01

**Dividends**

We have never declared or paid any cash dividends on our common stock, nor do we intend to declare or pay any cash dividends on our common stock in the foreseeable future. Subject to the limitations described below, the holders of our common stock are entitled to receive only such dividends (cash or otherwise) as may (or may not) be declared by our Board of Directors.

**Recent Sales of Unregistered Securities**

All of 374Water's sales of unregistered securities since inception have been made pursuant to private offerings to accredited investors. The sales set forth below were made pursuant to an exemption from registration requirements under Regulation D and/or Section 4(2) of the Securities Act of 1933, as amended. Except as otherwise noted below, no placement agent fees or commissions were paid on these offerings, and net proceeds were used for working capital.

In connection with the Merger with PowerVérde in April 2021, 374Water closed on a private placement of 436,783 shares of Series D Convertible Preferred Stock (the "Preferred Stock") with a par value of \$.0001, yielding gross proceeds of \$6,551,745 (the "Private Placement") and the settlement of a \$50,000 liability for Preferred Stock shares. The Private Placement proceeds were used for working capital, primarily for development, manufacture and commercialization of 374Water Inc.'s AirSCWO Nix systems. The Preferred Stock has a stated value of \$15 per share, is convertible into common stock at \$.30 per share and has voting rights based on the underlying shares of common stock. Upon liquidation of the Company, the Preferred Stockholders have liquidation preference before any assets can be distributed to common stockholders. All of the Preferred Stock was sold pursuant to an exemption from registration requirements under Regulation D and/or Section 4(2) of the Securities Act of 1933, as amended.

In December 2021, 374Water closed on a private placement of 2,500,000 shares of Common Stock (the "Common Shares") with a par value of \$.0001 and at an exercise price of \$2.00 yielding \$5,000,000. The private placement proceeds were raised to assist in the Company's efforts towards meeting Nasdaq uplisting requirements.

During the year end December 31, 2023, we raised approximately \$13.4 million of net proceeds at-the-market (ATM) equity offering under which we may issue up to \$100 million of common stock, which is currently effective and under which we commenced selling shares at the end of January 2023.

#### **Issuer Purchases of Equity Securities**

As of December 31, 2023, the Company did not have any purchases of equity securities from stockholders.

#### **ITEM 6. SELECTED FINANCIAL DATA.**

Not required for smaller reporting companies.

#### **ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.**

The following discussion and analysis should be read in conjunction with the financial statements and notes thereto appearing elsewhere herein.

#### **Critical Accounting Policies and Estimates**

The consolidated financial statements of 374Water Inc., ("374Water Inc.," "we," "us," "our," or the "Company") are prepared in conformity with accounting principles generally accepted in the United States of America ("GAAP"). The preparation of these consolidated financial statements requires our management to make estimates and assumptions about future events that affect the amounts reported in the financial statements and related notes. Future events and their effects cannot be determined with absolute certainty. Therefore, the determination of estimates requires the exercise of judgment. We believe the following critical accounting policies affect its more significant judgments and estimates used in the preparation of the consolidated financial statements.

## **Long-Lived Assets**

The Company reviews long-lived assets, including property and equipment and intangible assets with finite lives, for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company uses an estimate of the undiscounted cash flows over the remaining life of its long-lived assets, or related group of assets where applicable, in measuring whether the assets to be held and used will be realizable. Recoverability of assets held and used is measured by a comparison of the carrying amount to the future undiscounted expected net cash flows to be generated by the asset. As of December 31, 2023 and 2022, there were no impairments.

## **Inventory**

Inventories are stated at the lower of cost or net realizable value. Cost is determined on a first-in, first-out basis. The majority of our inventory is raw materials and work in progress. Net realizable value is the value of an asset that can be realized upon the sale of the asset, less a reasonable estimate of the costs associated with either the eventual sale or the disposal of the asset in question. We utilize third-party suppliers to produce our products. Costs associated with fabrication, and other costs associated with the manufacturing of products, are recorded as inventory. We periodically evaluate the carrying value of our inventories in relation to estimated forecasts of product demand, which takes into consideration the life cycle of product releases. When quantities on hand exceed estimated sales forecasts, we perform an analysis to determine if a write-down for such excess inventories is required. Once inventory has been written down, it creates a new cost basis for inventory that is not subsequently written up. Inventories are classified as current assets in accordance with recognized industry practice.

## **Revenue Recognition**

The Company follows the revenue standards of Codification (ASC) Topic 606: "Revenue from Contracts with Customers (Topic 606)." The core principle of this Topic is that an entity recognizes revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. Revenue is recognized in accordance with that core principle by applying the following five steps: 1) identify the contracts with a customer; 2) identify the performance obligations in the contract; 3) determine the transaction price; 4) allocate the transaction price to the performance obligations; and 5) recognize revenue when (or as) we satisfy a performance obligation using the input method.

The Company generates revenue from the sale of equipment (AirSCWO units) and services, specifically the completion of treatability studies. In the case of equipment revenues, the Company's performance obligations are satisfied over time over the life of the contract which are typically fixed price contracts. Revenue is recognized over time by measuring the progress toward complete satisfaction of the performance obligation using specific milestones. These milestones within the contract are assigned revenue recognition percentages, based on overall expected cost-plus margin estimates of those milestones compared to the total cost of the contract. Equipment sale related contract revenues are recognized in the proportion that contract costs incurred bear to total estimated costs. This method is used because management considers the input method to be the best available measure of progress on these contracts.

Services revenues are recognized when all five revenue recognition criteria have been completed which is generally when we deliver a completed report to the customer.

We also record as revenue all amounts billed to customers for shipping and handling costs and record the actual shipping costs as a component of cost of revenues. Reimbursements received from customers for out-of-pocket expenses are recorded as revenues, with related costs recorded as cost of revenues. We present revenues net of any taxes collected from customers and remitted to government authorities.

## **Onerous Contracts**

Onerous contracts are those where the costs to fulfill a contract exceed the consideration expected to be received under the contract. The revenue standard does not provide guidance on the accounting for onerous contracts or onerous performance obligations. US GAAP contains other applicable guidance on the accounting for onerous contracts, and those requirements should be used to identify and measure onerous contracts.

Our equipment manufacturing contract is a fixed price contract. Due to the nature of the contract, including customer specific equipment design, we applied ASC 605-35, *Revenue Recognition—Provision for Losses on Construction-Type and Production-Type Contract (ASC 605-35)*. ASC 605-35 requires the recognition of a liability for anticipated losses on contracts prior to those losses being incurred when a loss is probable and can be estimated.

## Stock-Based Compensation

We account for stock-based compensation based on ASC Topic 718-Stock Compensation which requires expensing of stock options and other share-based payments based on the fair value of each stock option awarded. The fair value of each stock option is estimated on the date of grant using the Black-Scholes valuation model. This model requires management to estimate the expected volatility, expected dividends, and expected terms as inputs to the valuation model.

## Overview

374Water Inc. (the "Company", "374Water", "We", or "Our") is a Delaware corporation which was incorporated on September 8, 2005. The Company was initially formed to develop, commercialize, and market a series of unique electric generating power systems designed to produce electrical power with zero emissions or waste byproducts, based on a patented pressure-driven expander motor and related organic rankine cycle technology.

On April 16, 2021, 374Water Inc. (f/k/a PowerVerde, Inc.) entered into an Agreement and Plan of Merger (the "Merger") with 374Water, Inc., a privately held company based in Durham, North Carolina, ("374Water Private Company") and 374Water Acquisition Corp., a newly-formed wholly-owned subsidiary of PowerVerde.

As a result of the Merger, the former 374Water Private Company shareholders own 65.8% of our issued and outstanding common stock and 53.8% of our issued and outstanding voting stock (which includes the preferred stock on an as converted basis).

Subsequent to the Merger, 374Water is focused on being a cleantech and social impact company providing a disruptive technology that addresses imminent environmental pollution challenges. We are focused on a new era of sustainable waste stream management that promotes circular economy initiatives and enables organizations to achieve sustainability goals and create green impact. Our vision is a world without waste and our mission is to preserve a clean and healthy environment that sustains life.

We have developed proprietary waste stream treatment systems based on Supercritical Water Oxidation (SCWO). The term used for the process is AirSCWO. SCWO leverages the unique properties of water in its supercritical phase (above 374 °C and 221 Bar) to convert organic matter to energy and safe products that can be recovered and used. The AirSCWO systems are essentially waste stream agnostic and able to treat a variety of complex, hazardous and non-hazardous waste streams, opening up opportunities for multiple applications in diverse market verticals on an international scale. Most pertinently, the technology is shifting the landscape in addressing environmental challenges that, until now, have been considered unsumountable (due to science/engineering or cost barriers), one good example being the global PFAS crisis.

We currently work with Merrell Bros., our strategic partner, to manufacture our AirSCWO systems at Merrell Bros. facilities under a manufacturing and service agreement that will be contractually ending on July 7, 2024. Under a Supplemental M&S Agreement, our relationship and the manufacturing services provided by Merrell Bros. will continue on an as needed basis based on statements of work to be agreed upon by both parties to fulfill future and current manufacturing orders. We have identified a 50,000 square foot location that would allow us to integrate our manufacturing operations with our water treatment laboratory and provide sufficient space for growth and we anticipate being fully operational on or before July 7, 2024 at this or a similar facility.

## [Table of Contents](#)

The systems will be supplied to multiple market verticals, and our revenue model includes both capital equipment sales and long-term service agreements based on throughput and capacity (Waste Purchase Agreements). Our market penetration strategy is combined of direct client and channel partner sales routes, depending on the specific market and territory. In some cases, the systems may be white labeled and sold as part of a broader solution package.

## Results of Operations

The following table sets forth, for the periods presented, the consolidated statements of operations data, which is derived from the accompanying consolidated financial statements:

	Year Ended December 31,			
	2023	2022	\$ Change	% Change
Revenue	\$ 743,952	\$ 3,015,521	\$ (2,271,569)	-75%
Cost of revenues	(1,852,208)	(2,679,020)	826,812	-31%
Gross Margin	(1,108,256)	336,501	(1,444,757)	-429%
Operating expenses:				
Research and development	1,496,129	1,113,500	382,629	34%
Compensation and related expenses	2,854,494	1,644,861	1,209,633	74%
Professional fees	508,795	768,548	(259,753)	-34%
General and administrative	2,675,202	1,565,723	1,109,479	71%
Total operating expenses	7,534,620	5,092,632	2,441,988	48%
Loss) from operations	(8,642,876)	(4,756,131)	(3,886,745)	82%
Other income, net	539,354	66,164	473,190	715%
Loss) before income taxes	(8,103,522)	(4,689,967)	(3,413,555)	73%
Provision for (benefit from) income taxes	—	—	—	0%
Net loss	\$ (8,103,522)	\$ (4,689,967)	\$ (3,413,555)	73%

*Year Ended December 31, 2023, as Compared to the Year Ended December 31, 2022*

Our business has been focused on the development and commercialization of 374Water's supercritical water oxidation (SCWO) systems. We generated \$743,952 and \$3,015,521 in revenue from manufacturing assembly services and from treatability study services during the years ended December 31, 2023, and 2022, respectively. During 2023, we reached fewer milestones and thus incurred less direct contract costs. Costs associated with our sold unit have started to decline as we reach the end of our fabrication and testing, which have had a direct correlation to the reduced revenue recognized this year. The Company has gained momentum on many promising leads which have been produced through early treatability studies but has not resulted in the sale of any AirSCWO units to this point. This has had a direct impact on our change in revenue year-over-year.

Our research and development expenses increased to \$1,496,129 during the year ended December 31, 2023, as compared to \$1,113,500 in the same period of 2022, primarily attributed to our development of the HEC-Prime engine. The solution consists of five pistons and turbines that collect the high-pressure mix gas (steam) to rotate and spin a shaft connected to a generator unit. This technology is designed to convert waste steam and gasses into renewable energy, aligning with our sustainability goals and market differentiation strategy. This R&D investment is a critical component of our long-term vision and is expected to yield returns in the form of both environmental impact and revenue generation.

Our compensation and related expenses increased to \$2,854,494 during the year ended December 31, 2023, as compared to \$1,644,861 in the same period of 2022. This is a deliberate step in our strategic growth plan to ensure we have sufficient personnel to support our upcoming growth and sales pipeline. As we aim to expand our business and take advantage of new opportunities, it's essential to have a talented and capable workforce in place. By investing in human resources, we can build a skilled team that can handle increased demands, provide excellent customer service, and drive innovation within the company. This proactive approach to scaling our personnel aligns with our long-term vision and positions us for success as we move forward. Given the current market conditions, we are reevaluating our overall strategy to better preserve our resources.

Our professional fees decreased to \$508,795 during the year ended December 31, 2023, as compared to \$768,548 in the same period of 2022, primarily attributed to increased headcount within our organization. As we expand our team and hire more skilled professionals, we are able to handle various tasks and projects internally, which reduces our reliance on third-party services.

Our general and administrative expenses increased to \$2,675,202 during the year ended December 31, 2023, as compared to \$1,565,723 in the same period of 2022, primarily because of increased personnel to facilitate the commercialization of our systems which has led to increased insurance costs, stock-based compensation expense for option grants to our hired employees, restricted stock grants to certain key executives, travel expenses and marketing and advertising expenses. The increase in marketing and advertising expenses is a strategic move aimed at growing our sales pipeline. By investing more in marketing initiatives, we are able to reach a wider audience and attract potential customers to our products and services. These additional marketing efforts help create brand awareness, generate leads, and nurture prospects through the sales funnel. This is an investment in our company's growth and long-term success. Given the current market conditions, we are reevaluating our overall strategy to better preserve our resources. Lastly, we have accrued \$135,000 for a legal claim we are in the process of settling with the issuance of an equity instrument.

Our other income increased to \$539,354 during the year ended December 31, 2023, as compared to \$66,164 in the same period of 2022, which is a result of the interest income we earned on our interest-bearing cash accounts that we opened in June 2023. We had previously held any excess funds in an investment account.

Our net loss increased to \$8,103,522 during the year ended December 31, 2023, as compared to \$4,689,967 in the same period of 2022. Substantial net losses are expected until we are able to successfully commercialize and market our 374Water systems, as to which there can be no assurance. The increase in net loss is attributable to the increased expenses discussed above.



*Liquidity and Capital Resources*

In April 2021, in connection with the Merger, we raised approximately \$6.6 million from the sale of Series D Preferred Stock and converted all of its convertible debt notes and accrued interest to shares of common stock. On December 17, 2021, the Company raised approximately \$5 million from the sales of common stock.

We have an at-the-market (ATM) equity offering under which we may issue up to \$100 million of common stock, which is currently effective and under which we commenced selling shares at the end of January 2023, and which will remain available to us in the future. During the year end December 31, 2023, we raised approximately \$13.4 million of net proceeds through this ATM.

We have financed our operations since inception principally through the sale of debt and equity securities and revenues. As of December 31, 2023, we had working capital of \$13,528,176 compared to working capital of \$7,060,511 as of December 31, 2022. This increase in working capital is due primarily to the at-the-market common stock offering that raised additional capital.

We believe that these funds will satisfy our working capital needs for the next 12 months from the report date. There can be no assurance that these funds will be sufficient to finance our plan of operations and commercialize our systems or that we will be able to raise any necessary additional funds on a commercially reasonable basis or at all.

*Cash Flows*

The following table presents our cash flows for the periods presented:

	Year Ended December 31,		
	2023	2022	\$ Change
Cash used in operating activities	\$ (9,034,987)	\$ (4,948,668)	\$ (4,086,319)
Cash provided by (used in) investing activities	1,851,717	(2,160,291)	4,012,008
Cash used in financing activities	13,578,938	25,049	13,553,889
Effect of exchange rates on cash	2,799	(328)	3,127
<b>Net cash increase (decrease)</b>	<b>6,398,467</b>	<b>(7,084,238)</b>	<b>13,482,705</b>

As of December 31, 2023, cash on hand was \$10,445,404, an increase of \$6,398,467, or 158%, as compared to \$4,046,937 as of December 31, 2022. During the year ended December 31, 2023, cash used in operations was \$9,034,987, an increase of \$4,086,319 as compared to \$4,948,996 during the year ended December 31, 2022. The increase in cash used in operating activities was mainly driven by greater operating expenses, due to an increase in personnel to achieve our business plan, resulting in an increase in our net loss of \$3,413,555 during the year ended December 31, 2023 compared to the same period in 2022. Further, our cash used in operating assets and liabilities increased by \$1,076,647 during the year ended December 31, 2023 compared to the same period in 2022. Offset by an increase in our non-cash charges for depreciation and amortization, stock-based compensation, and restricted stock issued for services of \$403,883.

During the year ended December 31, 2023, cash provided by investing activities was \$1,851,717, an increase of \$4,012,008, as compared to cash used in investing activities of \$2,160,291 during the year ended December 31, 2022. The increase in cash provided by investing activities is due to proceeds received from our held to maturity investment of \$1,963,432 and a decline in purchases of long-lived assets of \$85,144 in 2023 compared to 2022. Cash used in investing activities during the year ended December 31, 2022 primarily related to the purchase of the investment of \$1,963,432.

During the year ended December 31, 2023, cash provided by financing activities was \$13,578,938, an increase of \$13,553,889 compared to the same period in 2022. The increase is due to cash proceeds from the sale of our common stock through an at-the-market offering of \$13,441,438 and an increase in proceeds received from the exercise of options and warrants of \$112,451.

**ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.**

Not required for smaller reporting companies.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.**

The consolidated financial statements of the Company and other information required by this Item are set forth herein in a separate section beginning with the Index to the Financial Statements on page F-1.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.**

None.

**ITEM 9A. CONTROLS AND PROCEDURES.**

**Disclosure Controls and Procedures**

The Company, under the supervision and with the participation of the Company's management, have evaluated the effectiveness of the design and operation of the Company's "disclosure controls and procedures" (as defined in Rule 13a-15I under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures were effective.

**Management's Annual Report on Internal Control Over Financial Reporting**

Our management, including our principal executive officer and principal financial officer, is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act). Our management, with the participation of our principal executive officer and principal financial officer, evaluated the effectiveness of our internal control over financial reporting as of December 31, 2023. Our management's evaluation of our internal control over financial reporting was based on the framework in Internal Control-Integrated Framework (2013), issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, our management concluded that as of December 31, 2023, our internal control over financial reporting was effective.

Because of its inherent limitations, a system of internal control over financial reporting can provide only reasonable assurance of such reliability and may not prevent or detect misstatements. Also, projection of any evaluation of effectiveness to future periods is subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

**No Attestation Report**

Because the Company is a smaller reporting company, this annual report does not include an attestation report of the Company's independent registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm pursuant to rules of the Securities and Exchange Commission that permit the Company to provide only management's report in this annual report.

**Changes in Internal Control Over Financial Reporting**

There have been no changes in our internal control over financial reporting in connection with the evaluation required by Rule 13a-15(d) of the Exchange Act that occurred during 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**ITEM 9B. OTHER INFORMATION.**

None.

## PART III

### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.

The information required by this Item is set forth under the headings "Directors, Executive Officers and Corporate Governance" and "Section 16(a) Beneficial Ownership Reporting Compliance" in the Company's 2024 Proxy Statement to be filed with the U.S. Securities and Exchange Commission ("SEC") within 120 days after December 31, 2023 in connection with the solicitation of proxies for the Company's 2024 annual meeting of shareholders and is incorporated herein by reference.

### ITEM 11. EXECUTIVE COMPENSATION.

The information required by this Item is set forth under the heading "Executive Compensation" and under the subheadings "Board Oversight of Risk Management," "Compensation of Directors," "Director Compensation-2023" and "Compensation Committee Interlocks and Insider Participation" under the heading "Directors, Executive Officers and Corporate Governance" in the Company's 2024 Proxy Statement to be filed with the SEC within 120 days after December 31, 2023 and is incorporated herein by reference.

### ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.

The information required by this Item is set forth under the headings "Security Ownership of Certain Beneficial Owners and Management" and "Equity Compensation Plan Information" in the Company's 2024 Proxy Statement to be filed with the SEC within 120 days after December 31, 2023 and is incorporated herein by reference.

### ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE.

The information required by this Item is set forth under the heading "Review, Approval or Ratification of Transactions with Related Persons" and under the subheading "Board Committees" under the heading "Directors, Executive Officers and Corporate Governance" in the Company's 2024 Proxy Statement to be filed with the SEC within 120 days after December 31, 2023 and is incorporated herein by reference.

### ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES.

The information required by this Item is set forth under the subheadings "Fees Paid to Auditors" and "Policy on Audit Committee Pre-Approval of Audit and Non-Audit Services Performed by the Independent Registered Public Accounting Firm" under the proposal "Ratification of Appointment of Independent Registered Public Accounting Firm" in the Company's 2024 Proxy Statement to be filed with the SEC within 120 days after December 31, 2023 and is incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES.

See Exhibit Index and Financial Statements Index, below.

374Water Inc. and Subsidiaries  
Annual Report on Form 10-K  
Year Ended December 31, 2023

INDEX TO FINANCIAL STATEMENTS

	Page
<a href="#">REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM (PCAOB ID 677)</a>	F-1
<a href="#">CONSOLIDATED BALANCE SHEETS</a>	F-2
<a href="#">CONSOLIDATED STATEMENTS OF OPERATIONS</a>	F-3
<a href="#">CONSOLIDATED CHANGES IN STOCKHOLDERS' EQUITY</a>	F-4
<a href="#">CONSOLIDATED STATEMENTS OF CASH FLOWS</a>	F-5
<a href="#">NOTES TO CONSOLIDATED FINANCIAL STATEMENTS</a>	F-6

**Report of Independent Registered Public Accounting Firm**

To the Board of Directors and Stockholders  
374Water Inc. and subsidiaries  
Durham, North Carolina

**Opinion on the Financial Statements**

We have audited the accompanying consolidated balance sheets of 374Water Inc. and subsidiaries (collectively, the "Company") as of December 31, 2023 and 2022, and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for each of the years in the two-year period ended December 31, 2023, and the related notes (collectively, the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 2022, and the results of its operations and its cash flows for each of the years in the two-year period ended December 31, 2023, in conformity with accounting principles generally accepted in the United States of America.

**Basis for Opinion**

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

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

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

/s/ Cherry Bekaert LLP

We have served as the Company's auditor since 2021.

Raleigh, North Carolina

March 29, 2024

**374 Water Inc. and Subsidiaries**  
**Consolidated Balance Sheets**  
**As of December 31, 2023 and December 31, 2022**

	<b>2023</b>	<b>2022</b>
<b>Assets</b>		
Current Assets:		
Cash and cash equivalents	\$ 10,445,404	\$ 4,046,937
Accounts receivable, net of allowance of \$2,909 and \$0, respectively	64,792	—
Other receivables	39,749	—
Unbilled accounts receivable	1,494,553	918,164
Inventory	2,276,677	1,660,710
Investments	—	1,944,464
Prepaid expenses	581,085	153,455
Total Current Assets	14,902,260	8,723,730
Long-Term Assets:		
Property and equipment, net	230,971	143,079
Intangible asset, net	988,029	1,050,022
Total Long-Term Assets	1,219,000	1,193,101
<b>Total Assets</b>	<b>\$ 16,121,260</b>	<b>\$ 9,916,831</b>
<b>Liabilities and Stockholders' Equity</b>		
Current Liabilities:		
Accounts payable and accrued expenses	\$ 572,297	\$ 1,449,582
Accrued contract loss provision	500,000	—
Accrued legal settlement	135,000	—
Unearned revenue	130,000	200,109
Other liabilities	36,787	13,528
Total Current Liabilities	1,374,084	1,663,219
<b>Total Liabilities</b>	<b>1,374,084</b>	<b>1,663,219</b>
Commitments and contingencies (Note 10)		
<b>Stockholders' Equity</b>		
Preferred stock: 50,000,000 Convertible Series D preferred shares authorized; par value \$0.0001 per share, nil issued and outstanding at December 31, 2023 and 2022, respectively	—	—
Common stock: 200,000,000 common shares authorized, par value \$0.0001 per share, 132,667,107 and 126,702,545 shares issued and outstanding at December 31, 2023 and 2022, respectively	13,266	12,669
Additional paid-in capital	30,684,943	16,110,221
Accumulated deficit	(15,953,504)	(7,849,982)
Accumulated other comprehensive income (loss)	2,471	(19,296)
<b>Total Stockholders' Equity</b>	<b>14,747,176</b>	<b>8,253,612</b>
<b>Total Liabilities and Stockholders' Equity</b>	<b>\$ 16,121,260</b>	<b>\$ 9,916,831</b>

*The accompanying notes are an integral part of these consolidated financial statements.*

**374 Water Inc. and Subsidiaries**  
**Consolidated Statements of Operations**

	<b>For the years ended December 31,</b>	
	<b>2023</b>	<b>2022</b>
Revenue	\$ 743,952	\$ 3,015,521
Cost of revenues	(1,852,208)	(2,679,020)
Gross margin	(1,108,256)	336,501
<b>Operating Expenses</b>		
Research and development	1,496,129	1,113,500
Compensation and related expenses	2,854,494	1,644,861
Professional fees	508,795	768,548
General and administrative	2,675,202	1,565,723
Total Operating Expenses	7,534,620	5,092,632
<b>Loss from Operations</b>	(8,642,876)	(4,756,131)
<b>Other Income</b>		
Interest income	446,669	67,067
Other income (expense)	92,685	(903)
Total Other Income, net	539,354	66,164
<b>Net Loss before Income Taxes</b>	(8,103,522)	(4,689,967)
<b>Provision for Income Taxes</b>	—	—
<b>Net Loss</b>	\$ (8,103,522)	\$ (4,689,967)
Other comprehensive income (loss)		
Unrealized losses on marketable securities	—	(18,968)
Foreign currency translation	2,799	(328)
<b>Total other comprehensive income (loss)</b>	2,799	(19,296)
<b>Total comprehensive loss</b>	(8,100,723)	(4,709,263)
<b>Net Loss per Share - Basic and Diluted</b>	\$ (0.06)	\$ (0.04)
<b>Weighted Average Common Shares Outstanding - Basic and Diluted</b>	130,367,662	126,641,536

*The accompanying notes are an integral part of these consolidated financial statements.*

**374 Water Inc. and Subsidiaries**  
**Consolidated Changes in Stockholders' Equity**  
**For the years ended December 31, 2023 and December 31, 2022**

	Preferred Stock		Common Stock		Additional	Accumulated	Other	Total
	Number of	Amount	Number of	Amount	Paid in	Deficit	Comprehensive	Stockholders'
	Shares		Shares		Capital		Income	Equity
							(Loss)	
<b>Balances, December 31, 2021</b>	27,272	\$ 3	125,317,746	\$ 12,531	\$ 15,474,566	\$ (3,160,015)	\$ —	\$ 12,327,085
Accretion of stock-based compensation	—	—	—	—	610,741	—	—	610,741
Conversion of convertible preferred shares into common stock	(27,272)	(3)	1,363,149	136	(135)	—	—	(2)
Exercised option and warrants	—	—	21,650	2	25,049	—	—	25,051
Foreign currency loss	—	—	—	—	—	—	(328)	(328)
Unrealized loss on investments	—	—	—	—	—	—	(18,968)	(18,968)
Net loss	—	—	—	—	—	(4,689,967)	—	(4,689,967)
<b>Balances, December 31, 2022</b>	—	—	126,702,545	12,669	16,110,221	(7,849,982)	(19,296)	8,253,612
Issuance of shares of common stock	—	—	3,766,422	377	13,441,061	—	—	13,441,438
Accretion of stock-based compensation	—	—	—	—	925,181	—	—	925,181
Exercised stock options	—	—	2,163,140	217	99,783	—	—	100,000
Exercised warrants	—	—	15,000	1	37,499	—	—	37,500
Issuance of restricted stock	—	—	20,000	2	71,198	—	—	71,200
Foreign currency gain	—	—	—	—	—	—	2,799	2,799
Amortization of AFS investment securities unrealized loss in AOCI into interest income as yield adjustment	—	—	—	—	—	—	18,968	18,968
Net loss	—	—	—	—	—	(8,103,522)	—	(8,103,522)
<b>Balances, December 31, 2023</b>	—	\$ —	132,667,107	\$ 13,266	\$ 30,684,943	\$ (15,953,504)	\$ 2,471	\$ 14,747,176

*The accompanying notes are an integral part of these consolidated financial statements.*



**374 Water Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
**For the years ended December 31, 2023 and 2022**

	<b>For the years ended</b>	
	<b>2023</b>	<b>2022</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net Loss	\$ (8,103,522)	\$ (4,689,967)
Adjustments to reconcile net loss to net cash used in operations:		
Depreciation and amortization expense	85,816	67,573
Stock-based compensation	925,181	610,741
Issuance of restricted stock for services	71,200	—
		—
Changes in operating assets and liabilities:		
Accounts receivable	(64,792)	—
Other receivables	(39,749)	—
Unbilled accounts receivable	(576,389)	(918,164)
Inventory	(615,967)	(1,660,710)
Prepaid expense and other assets	(427,630)	65,011
Accounts payable and accrued expenses	(877,285)	1,386,601
Contract loss provision	500,000	-
Accrued legal settlement	135,000	-
Unearned revenue	(70,109)	200,109
Other liabilities	23,259	(9,862)
Net cash used in operating activities	(9,034,987)	(4,948,668)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchase of property, plant, and equipment	(105,990)	(144,567)
Purchases of marketable securities	—	(1,963,432)
Proceeds from marketable securities	1,963,432	—
Increase in intangible assets	(5,725)	(52,292)
Net cash provided by (used in) investing activities	1,851,717	(2,160,291)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Proceeds from the exercise of options and warrants	137,500	25,049
Proceeds from the issuance of common stock	13,441,438	—
Net cash provided by financing activities	13,578,938	25,049
Effect of exchange rates on cash	2,799	(328)
NET INCREASE (DECREASE) IN CASH	6,398,467	(7,084,238)
CASH - Beginning of year	4,046,937	11,131,175
CASH - End of year	\$ 10,445,404	\$ 4,046,937
<b>SUPPLEMENTAL CASH FLOW DISCLOSURES:</b>		
Cash paid for interest	\$ —	\$ —
Cash paid for taxes	\$ —	\$ —
<b>NON-CASH INVESTING ACTIVITIES:</b>		
Change in unrealized loss on AFS investment securities	\$ —	\$ (18,968)
Transfers of investment securities from AFS to HTM	\$ 1,963,432	\$ —
Amortization of AFS investment securities unrealized loss in AOCI into interest income as yield adjustment	\$ 18,968	—

*The accompanying notes are an integral part of these consolidated financial statements.*

**374 Water Inc. and Subsidiaries**  
**For the Years Ended December 31, 2023 and 2022**  
**Notes to Consolidated Financial Statements**

**Note 1 – Nature of Business and Presentation of Financial Statements**

Description of the Company

374Water Inc. (the "Company", "374Water", "We", or "Our") is a Delaware corporation which was formed in September 2005 as PowerVerde, Inc. At that time, the Company was focused on developing, commercializing and marketing a series of unique electric generating power systems designed to produce electrical power with zero emissions or waste byproducts, based on a pressure-driven expander motor and related organic rankine cycle technology.

On April 16, 2021, the Company entered into an Agreement and Plan of Merger (the "Merger") with 374Water Inc., a privately held company based in Durham, North Carolina, ("374Water Private Company") and 374Water Acquisition Corp., a newly-formed wholly-owned subsidiary of PowerVerde.

Following the Merger, 374Water offers a disruptive technology that transforms all wet wastes such as sewage sludge, biosolids, food waste, hazardous and non-hazardous waste, and forever chemicals (e.g., PFAS) into recoverable resources by focusing on waste as a valuable resource for water, energy, and minerals. We are pioneers in a new era of waste management that supports a circular economy and enables organizations to achieve their environment, social, and governance (ESG) goals. Our vision is a world without waste and our mission is to help create and preserve a clean and healthy environment that sustains life.

Presentation of Financial Statements

The accompanying consolidated financial statements are presented in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") and pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC"). The accompanying consolidated financial statements include the accounts and operations of the Company and all adjustments which are necessary for a fair presentation of the results of its operations, financial position, and cash flows. The consolidated financial statements include the accounts of 374Water Inc., 374Water Systems Inc., and 374Water Sustainability Israel LTD, each a wholly-owned subsidiary of 374Water. Intercompany balances and transactions have been eliminated in consolidation.

## Note 2 – Summary of Significant Accounting Policies

### Cash and Cash Equivalents and Investment Securities

The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. The Company held \$10,445,404 and \$4,046,937 in cash and cash equivalents as of December 31, 2023 and 2022, respectively.

During 2023, the Company reassessed classification of certain investment securities and the Company transferred \$1,963,432 of investment securities from available-for-sale ("AFS") to held-to-maturity ("HTM") investment securities. At the time of transfer, the Company reversed the allowance for credit losses associated with the AFS investment securities through credit loss expense. The securities were transferred at their amortized cost basis, net of any unrealized gain or loss reported in accumulated other comprehensive income. The related unrealized loss of \$18,968 included in accumulated other comprehensive loss was amortized out of other comprehensive income with an offsetting entry to interest income as a yield adjustment through earnings over the remaining term of the investment securities which matured in May 2023. Subsequent to transfer, the allowance for credit losses on these investment securities was evaluated under the accounting policy for HTM debt securities. The Company held no AFS investment securities as of December 31, 2023.

The Company held AFS investment securities as of December 31, 2022 as noted in the following table:

	Adjusted Cost	Unrealized Losses	Fair Value	Cash and Cash Equivalents	Current AFS Securities	Non-Current AFS Securities
Cash	\$ 4,046,937	\$ —	\$ 4,046,937	\$ 4,046,937	\$ —	\$ —
Level 2:						
U.S. Treasury securities	1,963,432	18,968	1,944,464	—	1,944,464	—
<b>Total</b>	<b>\$ 6,010,369</b>	<b>\$ 18,968</b>	<b>\$ 5,991,401</b>	<b>\$ 4,046,937</b>	<b>\$ 1,944,464</b>	<b>\$ —</b>

Accounting Standards Codification (ASC) Topic 820 "Fair Value Measurements" establishes a fair value hierarchy that prioritizes the information used to develop those assumptions. The fair value hierarchy is as follows:

Level 1 Inputs - Unadjusted quoted prices in active markets for identical assets or liabilities that the entity has the ability to access at the measurement date.

Level 2 Inputs - Fair value estimates are based on observable inputs other than quoted prices in active markets for identical assets and liabilities, quoted prices for identical or similar assets or liabilities in inactive markets, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 Inputs - Unobservable inputs for determining the fair values of assets or liabilities that reflect an entity's own assumptions about the assumptions that market participants would use in pricing the assets or liabilities.

The following is a description of valuation methodologies used for assets and liabilities recorded at fair value:

- Investment Securities Available-for-Sale.** Investment securities available-for-sale ("AFS") is recorded at fair value on a recurring basis. Fair value measurement is based upon quoted prices, if available. If quoted prices are not available, fair values are measured using independent pricing models or other model-based valuation techniques such as present value of future cash flows, adjusted for the security's credit rating, prepayment assumptions and other factors such as credit loss assumptions. Level 1 securities include those traded on an active exchange such as the New York Stock Exchange, Treasury securities that are traded by dealers or brokers in active over-the-counter markets and money market funds. Level 2 securities include mortgage-backed securities issued by government sponsored entities, municipal bonds and corporate debt securities. Securities classified as Level 3 include asset-backed securities in illiquid markets.

Inventories

Inventories are stated at the lower of cost or net realizable value. Cost is determined on a first-in, first-out basis. Our inventory is raw materials and work in progress. Net realizable value is the value of an asset that can be realized upon the sale of the asset, less a reasonable estimate of the costs associated with either the eventual sale or the disposal of the asset in question. We utilize third-party suppliers to produce our products. Costs associated with fabrication, and other costs associated with the manufacturing of products, are recorded as inventory. We periodically evaluate the carrying value of our inventories in relation to estimated forecasts of product demand, which takes into consideration the life cycle of product releases. When quantities on hand exceed estimated sales forecasts, we perform an analysis to determine if a write-down for such excess inventories is required. Once inventory has been written down, it creates a new cost basis for inventory. Inventories are classified as current assets in accordance with recognized industry practice.

Reclassifications

Certain reclassifications of prior year amounts including the effect of exchange rates on cash of \$328 on the consolidated statements of cash flows have been made to conform to the 2023 presentation. These reclassifications had no effect on net loss or loss per share as previously reported.

Accounts Receivable

Accounts receivables consist of balances due from sales, service revenues, and unbilled accounts receivables (revenues earned but not yet billed). The Company monitors accounts receivable and provides allowances for expected credit losses when considered necessary. At December 31, 2023 and 2022, accounts receivable were considered to be fully collectible but in accordance with the allowance for credit losses, the Company recorded an allowance for credit losses based on a reserve of current and aged receivables. Accordingly, an allowance for credit losses of \$2,909 and \$0 was recorded as of December 31, 2023 and 2022, respectively.

Accounts Receivable

Accounts receivables consist of balances due from customers for equipment sales and service revenues.

Other Receivables

Other receivables consist of accrued interest income from the cash held in interest bearing money market account with a financial institution. We typically receive payment for accrued interest one month in arrears.

Unbilled Accounts Receivables

Unbilled accounts receivables consist of balances due from revenues earned but not yet billed related to one customer contract for an equipment sale and services.

Accounts receivable allowance for credit loss

The activity related to the accounts receivable allowance for credit losses was as follows:

Name	2023	2022
Beginning balance	\$ —	\$ —
Current period provision	2,909	—
Write-offs	—	—
Recoveries	—	—
Ending Balance	\$ 2,909	\$ —

[Table of Contents](#)

Property and Equipment

Property and Equipment is recorded at cost. Depreciation is computed using the straight-line method and an estimated useful life of three to five years. Expenses for maintenance and repairs are charged to expenses as incurred.

The following table presents property and equipment as of December 31, 2023 and 2022:

	<b>2023</b>	<b>2022</b>
Computers	\$ 16,489	\$ 11,434
Equipment	190,748	134,322
Vehicles	44,510	—
Total property and equipment	251,747	145,756
Less: accumulated depreciation	(20,776)	\$ (2,677)
Total property and equipment, net	\$ 230,971	\$ 143,079

Depreciation expense related to property and equipment was as follows:

	<b>Year Ended December 31,</b>	
	<b>2023</b>	<b>2022</b>
Depreciation	\$ 18,098	\$ 2,447

Intangible Assets

Intangible assets are subject to amortization, and any impairment is determined in accordance with ASC 350, "Intangibles - Goodwill and Other." Intangible assets are stated at historical cost and amortized over their estimated useful lives. The Company uses a straight-line method of amortization, unless a method that better reflects the pattern in which the economic benefits of the intangible asset are consumed or otherwise used up can be reliably determined. As of December 31, 2023 and 2022, there was no impairment.

Long-Lived Assets

The Company reviews long-lived assets, including property and equipment and intangible assets with finite lives, for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company uses an estimate of the undiscounted cash flows over the remaining life of its long-lived assets, or related group of assets where applicable, in measuring whether the assets to be held and used will be realizable. Recoverability of assets held and used is measured by a comparison of the carrying amount to the future undiscounted expected net cash flows to be generated by the asset. As of December 31, 2023 and 2022, there were no impairments.

## Concentrations of Credit Risk

Financial instruments that potentially subject the Company to credit risk consist of cash and cash equivalents, and marketable securities. Deposits with financial institutions are insured, up to certain limits, by the Federal Deposit Insurance Corporation ("FDIC"). The Company's cash deposits often exceed the FDIC insurance limit; however, all deposits are maintained with high credit quality institutions and the Company has not experienced any losses in such accounts. The financial condition of financial institutions is periodically reassessed, and the Company believes the risk of any loss is minimal. The Company believes the risk of any loss on cash due to credit risk is minimal. Furthermore, we perform ongoing credit evaluations of our customers and generally do not require collateral.

Significant customers and suppliers are those that account for greater than 10% of the Company's revenues, purchases, accounts receivables, and accounts payables. One customer made up approximately 88% and 98% of revenue for the year ended December 31, 2023 and 2022, respectively. As of December 31, 2023, one customer accounted for 51% of our outstanding accounts receivable. As of December 31, 2022, we did not have any accounts receivable outstanding.

As of December 31, 2023 and 2022, our unbilled receivables of \$1,485,803 and \$918,164, respectively, were due from one customer and the same customer that comprises the majority of our revenue. The loss of this significant customer could adversely affect the results of our operations.

In 2023 and 2022, the Company purchased a substantial portion of manufacturing services from one third party vendor, Merrell Bros.

Refer to Note 9 for a license agreement we have with Duke University for the SCWO technology used in our systems.

## Revenue Recognition

The Company follows the revenue standards of Codification (ASC) Topic 606: "Revenue from Contracts with Customers (Topic 606)." The core principle of this Topic is that an entity recognizes revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. Revenue is recognized in accordance with that core principle by applying the following five steps: 1) identify the contracts with a customer; 2) identify the performance obligations in the contract; 3) determine the transaction price; 4) allocate the transaction price to the performance obligations; and 5) recognize revenue when (or as) we satisfy a performance obligation using the input method.

The Company generates revenue from the sale of equipment (AirSCWO units) and services, specifically the completion of treatability studies. In the case of equipment revenues, the Company's performance obligations are satisfied over time over the life of the contract which are typically fixed price contracts. Revenue is recognized over time by measuring the progress toward complete satisfaction of the performance obligation using specific milestones. These milestones within the contract are assigned revenue recognition percentages, based on overall expected cost-plus margin estimates of those milestones compared to the total cost of the contract. Equipment sale related contract revenues are recognized in the proportion that contract costs incurred bear to total estimated costs. This method is used because management considers the input method to be the best available measure of progress on these contracts.

Changes in our overall expected cost estimates are recognized as a cumulative adjustment for the inception-to-date effective of such change. If these changes in estimates result in a possible loss being incurred on the contract, we accrue for such a loss in the period such an outcome becomes probable.

Services revenues are recognized when all five revenue recognition criteria have been completed which is generally when we deliver a completed report to the customer.

Contract costs include all direct material, labor and subcontractor costs and those indirect costs related to contract performance, such as indirect labor, supplies, tools, repairs, and depreciation. General, selling, and administrative costs are charged to expenses as incurred.

## Table of Contents

We also record as revenue all amounts billed to customers for shipping and handling costs and record the actual shipping costs as a component of cost of revenues. Reimbursements received from customers for out-of-pocket expenses are recorded as revenues, with related costs recorded as cost of revenues. We present revenues net of any taxes collected from customers and remitted to government authorities.

Revenues for the year ended December 31, 2023 in the amount of \$655,818 was generated from the manufacturing of the AirSCWO equipment system and \$88,134 was generated from the completion of treatability study services. Revenues for the year ended December 31, 2022 in the amount of \$2,952,020 was generated from the manufacturing of the AirSCWO equipment system and \$63,501 was generated from the completion of treatability study services.

## Accrued Contract Loss Provision and Onerous Contracts

Onerous contracts are those where the costs to fulfill a contract exceed the consideration expected to be received under the contract. The revenue standard does not provide guidance on the accounting for onerous contracts or onerous performance obligations. US GAAP contains other applicable guidance on the accounting for onerous contracts, and those requirements should be used to identify and measure onerous contracts.

Our equipment manufacturing contract is a fixed price contract. Due to the nature of the contract, including customer specific equipment design, we applied ASC 605-35, *Revenue Recognition—Provision for Losses on Construction-Type and Production-Type Contract (ASC 605-35)*. ASC 605-35 requires the recognition of a liability for anticipated losses on contracts prior to those losses being incurred when a loss is probable and can be estimated.

As of December 31, 2023, we evaluated the total costs incurred on this contract to date and the estimated costs we anticipate incurring to complete the contract. Based on this analysis, we accrued a contract loss provision of \$500,000 which has been presented on the accompanying consolidated balance sheets and is recorded within cost of revenues on the accompanying consolidated statements of operations.

## Stock-Based Compensation

The Company has accounted for stock-based compensation under the provisions of ASC Topic 718 – "Stock Compensation" which requires the use of the fair-value based method to determine compensation for all arrangements under which employees and others receive shares of stock or equity instruments (stock options and common stock purchase warrants). The fair value of each stock option award is estimated on the date of grant using the Black-Scholes valuation model that uses assumptions for expected volatility, expected dividends, expected term, and the risk-free interest rate. Expected volatilities are based on historical volatility of peer companies and other factors estimated over the expected term of the stock options. The expected term of options granted is derived using the "simplified method" which computes expected term as the average of the sum of the vesting term plus the contract term. The risk-free rate is based on the U.S. Treasury yield curve in effect at the time of grant for the period of the expected term.

The Company has elected to estimate and account for options granted for which the requisite service period will not be rendered, due to the option being forfeited or expiring. The forfeiture rate estimated is based on the percentage of cumulative forfeitures to the total award grants. During the quarter ended December 31, 2023, we compared our actual forfeiture rate to our estimated forfeiture rate and made a cumulative adjustment of approximately \$55,000 in the quarter ended December 31, 2023 to reduce our forfeiture rate estimate to approximately 5% of the total stock-based compensation recognized during the year.

## [Table of Contents](#)

### Income Tax Policy

The Company accounts for income taxes using the liability method prescribed by ASC 740 - Income Taxes. Under this method, deferred tax assets and liabilities are determined based on the difference between the financial reporting and tax bases of assets and liabilities using enacted tax rates that will be in effect in the year in which the differences are expected to reverse. The Company records a valuation allowance to offset deferred tax assets if, based on the weight of available evidence, it is more-likely-than-not that some portion, or all, of the deferred tax assets will not be realized. The effect on deferred taxes of a change in tax rates is recognized as income or loss in the period that includes the enactment date.

### Accounting for Uncertainty in Income Taxes

The Company follows the provisions of ASC Topic 740-10, "Accounting for Uncertainty in Income Taxes" which clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a recognition threshold and measurement process for financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. This topic also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. There were no uncertain tax positions as of December 31, 2023 and 2022.

### Research and Development Costs

The Company's research and development costs are expensed in the period in which they are incurred. Such expenditures amounted to \$1,496,129 and \$1,113,500 for the years ended December 31, 2023 and 2022, respectively.

### Earnings (Loss) Per Share

Earnings (loss) per share is computed in accordance with ASC Topic 260, "Earnings per Share" Basic weighted-average number of shares of common stock outstanding for the years ended December 31, 2023 and 2022 include the shares of the Company issued and outstanding during such periods, each on a weighted average basis. The basic weighted average number of shares of common stock outstanding excludes common stock equivalent incremental shares, while diluted weighted average number of shares outstanding includes such incremental shares. However, as the Company was in a loss position for all periods presented, basic and diluted weighted average shares outstanding are the same, as the inclusion of the incremental shares would be anti-dilutive. As of December 31, 2023, there were the following potentially dilutive securities that were excluded from diluted net loss per share because their effect would be antidilutive: options for 10,828,174 shares of common stock and 1,235,000 warrants. As of December 31, 2022, there were the following potentially dilutive securities that were excluded from diluted net loss per share because their effect would be antidilutive: options for 12,752,000 shares of common stock and 1,250,000 warrants.

### Financial Instruments

The Company carries cash, accounts receivable, accounts payable and accrued expenses, at historical costs. The respective estimated fair values of these assets and liabilities approximate carrying values. The Company applies the guidance related to fair value for certain non-financial assets and liabilities. The non-financial assets and liabilities include items such as finite lived intangibles and property and equipment.

### Foreign Currency Translation

The Company's reporting currency is the United States ("U.S.") dollar while the functional currency of the Company's insignificant non-U.S. subsidiary 374Water Sustainability Israel LTD is the Israeli Shekel. Translation adjustments resulting from translating the functional currency financial statements into U.S. dollar equivalents are reported separately in accumulated other comprehensive income (loss) in equity. Gains (loss) arising from transactions denominated in a currency other than the functional currency of the entity that is party to the transaction are included in net income (loss) on the Company's consolidated statements of operations.

All assets and liabilities of the 374Water Sustainability Israel LTD wholly-owned subsidiary whose accounts are denominated in foreign currency are translated into United States dollars at appropriate year-end current exchange rates. All income and expense accounts of those locations are translated at the average exchange rate for each period. The foreign currency translation amounts for the years ended December 31, 2023 and 2022 are included in accumulated comprehensive income on the consolidated statement of changes in equity.

### Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of income and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates in the accompanying financial statements include the fair value of equity-based compensation, revenue recognition and accrued loss provisions on onerous contracts, fair value of intangible assets, useful lives of long-lived assets, and valuation allowance against deferred tax assets.



Recent Accounting Pronouncements - Adopted

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which amends guidance on reporting credit losses for assets held at amortized cost basis and available for sale debt securities. For assets held at amortized cost basis, Topic 326 eliminates the probable initial recognition threshold in current GAAP and, instead, requires an entity to reflect its current estimate of all expected credit losses. The allowance for credit losses is a valuation account that is deducted from the amortized cost basis of the financial assets to present the net amount expected to be collected. For available for sale debt securities, credit losses should be measured in a manner similar to current GAAP, however Topic 326 will require that credit losses be presented as an allowance rather than as a write-down. This ASU affects entities holding financial assets and net investment in leases that are not accounted for at fair value through net income. The amendments affect loans, debt securities, trade receivables, net investments in leases, off balance sheet credit exposures, reinsurance receivables, and any other financial assets not excluded from the scope that have the contractual right to receive cash. The amendments in this update are effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. Effective January 1, 2023, the Company adopted this ASU. The adoption resulted in an immaterial credit loss allowance against our outstanding accounts receivable as of December 31, 2023.

Recent Accounting Pronouncements - Not Yet Adopted

In December 2023 FASB issued Accounting Standards Update (ASU) 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures* (ASU 2023-09). The ASU focuses on income tax disclosures around effective tax rates and cash income taxes paid. ASU 2023-09 requires public business entities to disclose, on an annual basis, a rate reconciliation presented in both dollars and percentages. The guidance requires the rate reconciliation to include specific categories and provides further guidance on disaggregation of those categories based on a quantitative threshold equal to 5% or more of the amount determined by multiplying pretax income (loss) from continuing operations by the applicable statutory rate. For entities reconciling to the US statutory rate of 21%, this would generally require disclosing any reconciling items that impact the rate by 1.05% or more. ASU 2023-09 is effective for public business entities for annual periods beginning after Dec. 15, 2024 (generally, calendar year 2025) and effective for all other business entities one year later. Entities should adopt this guidance on a prospective basis, though retrospective application is permitted. The adoption of ASU 2023-09 is expected to have a financial statement disclosure impact only and is not expected to have a material impact on the Company's financial statements.

In November 2023 the FASB issued ASU 2023-07, *Segment Reporting – Improvements to Reportable Segment Disclosures*. The ASU will now require public entities to disclose its significant segment expenses categories and amounts for each reportable segment. Under the ASU, a significant segment expense is an expense that is:

- significant to the segment,
- regularly provided to or easily computed from information regularly provided to the chief operating decision maker (CODM), and
- included in the reported measure of segment profit or loss.

The ASU is effective for public entities for fiscal years beginning after December 15, 2023 and interim periods in fiscal years beginning after December 15, 2024 (calendar year public entity will adopt the ASU in its 2024 Form 10 K). The ASU should be adopted retrospectively unless it's impracticable to do so. Early adoption of the ASU is permitted, including in an interim period. The adoption of ASU 2023-07 is expected to have a financial statement disclosure impact only and is not expected to have a material impact on the Company's financial statements.

The Company considers the applicability and impact of all recently issued accounting pronouncements. Recent accounting pronouncements not specifically identified in our disclosures are either not applicable to the Company or are not expected to have a material effect on our financial condition or results of operations.

### Note 3 – Liquidity, Capital Resources

As of December 31, 2023, the Company had working capital of \$13,528,176 compared to working capital of \$7,060,511 at December 31, 2022. As of December 31, 2023, the Company had an accumulated deficit of \$15,953,504 compared to an accumulated deficit of \$7,849,982 at December 31, 2022. During the year ended December 31, 2023, the Company had a net loss of \$8,103,522 and used \$9,034,987 of net cash in operations. During the year ended December 31, 2022, the Company had a net loss of \$4,689,967 and used \$4,948,668 of net cash in operations for the period.

The Company believes it has sufficient cash-on-hand for the Company to meet its financial obligations as they come due at least the next 12 months from the date of the report.

To the extent that the Company raises additional funds by issuing shares of its common stock or other securities convertible or exchangeable for shares of common stock, stockholders will experience dilution, which may be significant. Any or all of the foregoing may have a material adverse effect on the Company's business and financial performance.

### Note 4 – Inventory

Inventory consists of:

Name	Balance at December 31, 2023	Balance at December 31, 2022
Raw materials	\$ 457,393	\$ 755,218
Work-in-process	1,819,284	905,492
<b>Total</b>	<b>\$ 2,276,677</b>	<b>\$ 1,660,710</b>

As of December 31, 2023 and 2022, the Company noted no inventory impairment and there were no inventory write downs recorded.

### Note 5 – Intangible Assets

Intangible assets are recorded at cost and consist of the license agreement with Duke University and other patents. The Company issued Duke University a small block of shares of common stock estimated to have a fair value of \$1,073,529 as consideration for granting the Company the license based on the Company's common stock market price on the date the license agreement was executed (see Note 8). Intangible assets are comprised of the following as of December 31, 2023 and 2022:

Name	Estimated Life	Balance at December 31, 2022	Additions	Amortization	Balance at December 31, 2023
License agreement	17 Years	\$ 964,965	\$ -	\$ 63,036	\$ 901,929
Patents	20 Years	85,057	5,725	4,682	86,100
<b>Total</b>		<b>\$ 1,050,022</b>	<b>\$ 5,725</b>	<b>\$ 67,718</b>	<b>\$ 988,029</b>

Name	Estimated Life	Balance at December 31, 2021	Additions	Amortization	Balance at December 31, 2022
License agreement	17 Years	\$ 1,028,114	\$ -	\$ 63,149	\$ 964,965
Patents	20 Years	34,742	52,292	1,977	85,057
<b>Total</b>		<b>\$ 1,062,856</b>	<b>\$ 52,292</b>	<b>\$ 65,126</b>	<b>\$ 1,050,022</b>

[Table of Contents](#)

Amortization expense for the year ended December 31, 2023 and December 31, 2022 was \$67,718 and \$65,126, respectively.

Estimated future amortization expense as of December 31, 2023:

	December 31, 2023
2024	\$ 67,933
2025	67,933
2026	67,933
2027	67,933
2028	67,933
Thereafter	648,364
<b>Intangible assets, net</b>	<b>\$ 988,029</b>

**Note 6 – Revenue, Unearned Revenue and Unbilled Accounts Receivable**

Revenue

The following is a summary of our revenues by type for the years ended December 31, 2023 and 2022:

Name	Balance at December 31, 2023	%	Balance at December 31, 2022	%
Equipment revenue	\$ 655,818	88%	\$ 2,952,020	98%
Service revenue	88,134	12	63,501	2
<b>Total</b>	<b>\$ 743,952</b>	<b>100%</b>	<b>\$ 3,015,521</b>	<b>100%</b>

Unearned Revenue

The following is a summary of our unearned revenue activity for the years ended December 31, 2023 and 2022:

Name	Balance at December 31, 2023	Balance at December 31, 2022
Unearned revenue at beginning of year	\$ 200,109	\$ -
Billings deferred	58,000	1,467,189
Recognition of prior unearned revenue	(128,109)	(1,267,080)
<b>Unearned revenue at end of year</b>	<b>\$ 130,000</b>	<b>\$ 200,109</b>

Name	Balance at December 31, 2023	Balance at December 31, 2022
Unbilled accounts receivable at beginning of year	\$ 918,164	\$ -
Services performed but unbilled	1,061,612	918,164
Services billed	(485,223)	-
<b>Unbilled accounts receivable at end of year</b>	<b>\$ 1,494,553</b>	<b>\$ 918,164</b>

## Note 7 – Stockholder’ Equity

The Company is authorized to issue 50,000,000 preferred stock shares and 200,000,000 common stock shares both with a par value of \$.0001.

### Preferred Stock

On October 30, 2020, the Company designated 1,000,000 shares as Series D Convertible Preferred Stock with a par value of \$0.0001.

On April 16, 2021, the Company closed on a private placement of 440,125 shares of Series D Convertible Preferred Stock (the "Preferred Stock") with a par value of \$0.0001, yielding gross proceeds of \$6,551,691 (the "Private Placement") and settlement of a \$50,000 liability for Preferred Stock shares. The Private Placement proceeds will be used for working capital, primarily for the development, manufacturing and commercialization of 374Water's Air SCWO systems. The Preferred Stock has a stated value of \$15 per share, is convertible into common stock at \$0.30 per share and has voting rights based on the underlying shares of common stock. Upon liquidation of the Company, the Preferred Stockholders have a liquidation preference before any assets can be distributed to common stockholders. All of the Preferred Stock were sold pursuant to an exemption from registration requirements under Regulation D and/or Section 4(2) of the Securities Act of 1933, as amended. On September 29, 2021, 412,853 shares of Preferred Stock were converted into 20,642,667 shares of common stock. On January 12, 2022, the Company converted the remaining 27,272 shares of Preferred Stock to 1,363,149 shares of common stock. As of December 31, 2023, there are 50,000,000 shares of "blank check" preferred stock, but there were no shares of Preferred Stock issued and outstanding.

### Common Stock

The holders of common stock are entitled to one vote per share on all matters submitted to a vote of shareholders, including the directors' election. There is no right to cumulative voting in the election of directors. The holders of common stock are entitled to any dividends that may be declared by the board of directors out of funds legally available for payment of dividends subject to the prior rights of holders of preferred stock and any contractual restrictions the Company has against the payment of dividends on common stock. In the event of our liquidation or dissolution, holders of common stock are entitled to share ratably in all assets remaining after payment of liabilities and the liquidation preferences of any outstanding shares of preferred stock. Holders of common stock have no preemptive rights and have no right to convert their common stock into any other securities. As of December 31, 2023, there were 132,667,107 shares of common stock issued and outstanding.

In December 2022, the Company entered into an equity distribution agreement with an underwriter pursuant to which the Company may offer and sell shares of its common stock from time to time through the underwriter as its sales agent. Sales of common stock, if any, will be made at market prices by any method permitted by law deemed to be an "at-the-market" offering as defined in Rule 415 promulgated under the Securities Act of 1933, as amended. The Company has no obligation to sell any shares of common stock under the open market sale agreement and may at any time suspend offers under the open market sale agreement, in whole or in part, or terminate the equity distribution agreement.

During the year ended December 31, 2023, a total of 3,766,422 shares of common stock have been sold pursuant to the open market sale agreement resulting in a total of \$13,441,438 in proceeds, net of \$230,000 commission fees and \$110,000 of accounting and legal fees. As of December 31, 2023, approximately \$86,560,000 remained available under the Company's at-the-market public facility, subject to various limitations.

### Stock-Based Compensation

Stock Options issued are part of the 2021 Equity Incentive Plan (the "2021 Plan") which reserved a total of 10,000,000 shares. The Company has issued a total of 4,052,000 stock options with 5,948,000 reserved options remaining for issuance as of December 31, 2023. The Company recorded stock-based compensation of \$925,181 and \$610,741, respectively, related to vested options and options expected to vest granted to employees and various consultants of the Company, of which \$796,881 and \$549,435 was charged as general and administrative expenses and \$128,300 and \$61,306 as research and development expenses in the accompanying consolidated statements of operations during the years ended December 31, 2023 and 2022, respectively. During the year ended December 31, 2023 and 2022, the stock-based compensation expense recognized is net of estimated forfeitures of \$50,000 and \$41,851, respectively.

### Stock Options

Stock option activity for the year ended December 31, 2023 and 2022 is summarized as follows:

	Options	Weighted Average Exercise Price	Aggregate Intrinsic Value	Weighted Average Remaining Contractual Life (Years)
<b>Options outstanding at December 31, 2021</b>	<b>12,300,000*</b>	<b>0.37</b>	<b>\$ 30,504,000</b>	<b>5.62</b>
Granted	1,415,000	2.88	—	—
Exercised	(25,352)	1.67	—	—
Expired/forfeit	(937,648)	0.67	—	—
<b>Options outstanding at December 31, 2022</b>	<b>12,752,000</b>	<b>0.62</b>	<b>\$ 28,543,370</b>	<b>5.09</b>
Granted	1,473,000	2.43	—	—
Exercised	(2,379,038)	0.27	—	—
Expired/forfeit	(1,017,788)	1.78	—	—
<b>Options outstanding at December 31, 2023</b>	<b>10,828,174</b>	<b>0.83</b>	<b>\$ 6,374,433</b>	<b>4.66</b>
<b>Exercisable at December 31, 2023</b>	<b>8,533,871</b>	<b>1.79</b>	<b>\$ 8,710,000</b>	<b>3.59</b>

\*Includes 8,700,000 options granted in connection with the Merger (see Note 1) and were not granted under the 2021 Plan. As of December 31, 2023, 6,700,000 of these options remain outstanding.

[Table of Contents](#)

During the year ended December 31, 2023, the options exercised consisted of 2,283,800 of cashless option exercises which resulted in the issuance of 2,067,902 shares of common stock shares and the exercise of 95,238 common stock options with an exercise price of \$1.05 which resulted in gross proceeds of \$100,000 and the issuance of 95,238 common stock shares.

Total unrecognized compensation associated with these unvested options is approximately \$1,912,257 which will be recognized over a period of approximately three years.

Intrinsic value is based on the difference between the option exercise price and the quoted market price as of December 31, 2023.

The fair value of these options granted were estimated on the date of grant, using the Black-Scholes option-pricing model with the following assumptions:

	For the years ended	
	2023	2022
Dividend yield	0.00%	0.00%
Expected life	5.45 – 6.53 Years	5.28 – 6.10 Years
Expected volatility	26.25-35.88%	34.37-39.18%
Risk-free interest rate	3.57-4.66%	1.44-4.30%

#### Stock Warrants

During the year ended December 31, 2022, there were no new warrants issued or exercised. During the year ended December 31, 2023, there were no new warrants issued and 15,000 warrants exercised with an exercise price of \$2.50 resulting in gross proceeds of \$37,500 and the issuance of 15,000 shares of common stock. The intrinsic value of all outstanding warrants as of December 31, 2023 was \$0 based on the market price of our common stock of \$1.42 per share.

A summary of warrant activity as of December 31, 2023, is as follows:

	Shares	Weighted Average Exercise Price	Aggregate Intrinsic Value	Weighted Average Remaining Contractual Life (Years)
<b>Balance at December 31, 2021</b>	<b>1,250,000</b>	<b>2.50</b>	<b>\$ 437,500</b>	<b>2.96</b>
Issued	—	—	—	—
Exercised	—	—	—	—
<b>Balance at December 31, 2022</b>	<b>1,250,000</b>	<b>2.50</b>	<b>\$ 450,000</b>	<b>1.96</b>
Issued	—	—	—	—
Exercised	(15,000)	2.50	—	—
<b>Balance at December 31, 2023</b>	<b>1,235,000</b>	<b>2.50</b>	<b>\$ —</b>	<b>0.96</b>

## **Note 8 – Related Party Transactions**

In 2021, the Company entered into a manufacturing and service agreement to fabricate and manufacture the AirSCWO systems (the "Original M&S Agreement") with Merrell Bros. Fabrication, LLC, a division of Merrell Bros. Inc ("Merrell Bros."). The initial term of the Original M&S Agreement ends July 7, 2024 with a one-year automatic renewal unless terminated by either party with at least a sixty-day notice prior to expiration (see Note 11 – Subsequent Events).

As part of the agreement, the Company appointed Terry Merrell to its board of directors. As of December 31, 2023, Merrell Bros. or their affiliates own stock below 5% of the outstanding common stock. As of December 31, 2022, Merrell Bros. or their affiliates own stock in excess of 5% of the outstanding common stock.

As of December 31, 2023, the Company incurred \$1,210,826 in related party expenses related to the manufacturing of the AirSCWO systems. As of December 31, 2023, accounts payable and accrued expenses includes \$125,282 of amounts owed to Merrell Bros. for the manufacturing services provided.

## **Note 9 – Commitments and Contingencies**

### ***License Agreement***

The patented technology underlying 374Water's supercritical water oxidation (SCWO) units, which was developed principally through the efforts of Messrs. Nagar and Deshusses at the facilities of Duke University, Durham, North Carolina ("Duke"), where Dr. Deshusses is a professor. The SCWO technology is licensed to 374Water pursuant to a worldwide license agreement with Duke executed on April 16, 2021 (the "License Agreement"). In connection with the License Agreement, 374Water also executed an equity transfer Agreement with Duke pursuant to which Duke received a small number of common stock in the Company (See Note 5). Under the terms of the License Agreement, the Company is required to make royalty payments based on a percentage of licensed product sales, as defined in the License Agreement which is triggered by the sale of licensed products. Further, the Company is also required to pay royalties on a percentage of sublicensing fees. The Company will reimburse Duke for any ongoing patent expenses incurred. As of December 31, 2023, the Company has not incurred any expenses in connection with this License Agreement. The Company may terminate the license agreement anytime by providing Duke 60 days' written notice.

### ***Legal Settlement***

In 2023, the Company was named in a lawsuit filed against our former stock transfer agent ("Former TA") by certain unrelated individuals asserting claims for negligence, conversion, and various breaches. Our Former TA issued 175,000 shares of our common stock to the State of Delaware in accordance with escheat laws after the Former TA was unable to issue the shares of common stock to the individuals. While the Company was not at fault in the matter, due to certain indemnification clauses between the Company and the Former TA, we are in the process of settling the matter with the individuals.

Based on the settlement discussions currently in process, we believe this matter will be settled with 275,000 common stock options with an exercise price equal to the market price when granted and an exercise period of five years. As of December 31, 2023, we have \$135,000 as an accrued legal settlement, as presented on the accompanying consolidated balance sheet, for this pending settlement based on the estimated grant-date fair value of these options using a Black-Scholes valuation model and the following assumptions: stock price and exercise price of \$1.33, risk free rate 4.43%, expected term five years, and volatility of 26.36%. This estimated legal settlement has been included in general and administrative expenses on the accompanying consolidated statements of operations for the year ended December 31, 2023.

We note that in the ordinary course of business that we may be the subject of, or party to, various pending or threatened legal actions which could result in a material adverse outcome for which the related damages may not be estimable. We do not believe any legal action would have a significant impact on the financials other than the matter disclosed above. However, there is inherent uncertainty regarding such matters.

**Note 10 – Income Taxes**

Deferred income taxes are provided based on the provisions of ASC Topic 740, "Accounting for Income Taxes", to reflect the tax consequences in future years of differences between the tax basis of assets and liabilities and their financial reporting amounts based on enacted tax laws and statutory tax rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized.

Significant components of the Company's net deferred income taxes are as follows:

	<b>December 31,</b>	
	<b>2023</b>	<b>2022</b>
Deferred tax assets:		
Goodwill	\$ 151,634	\$ 168,897
Capitalized start-up costs	55,077	65,305
Other intangibles	6,808	8,068
Other accruals	36,760	17,425
Stock compensation	359,378	80,374
Net operating loss	3,561,783	1,009,495
Contribution carryforward	832	346
Unrealized gain/loss	—	(10,499)
Unearned revenue	35,399	5,763
Research and development costs	887,434	353,746
Reserves and allowances	136,942	—
Deferred tax assets	5,232,047	1,698,920
Less valuation allowance	(5,173,947)	(1,665,938)
Net deferred tax assets after valuation allowance	\$ 58,100	\$ 32,982
Deferred tax liabilities:		
Depreciation	\$ (58,100)	\$ (32,982)
Deferred tax liabilities	(58,100)	(32,982)
Net deferred tax asset (liability)	\$ —	\$ —

A reconciliation of the U.S. statutory federal income tax rate to the effective income tax rate (benefit) follows:

#### Rate Reconciliation

	December 31,	
	2023	2022
<b>Rate Reconciliation</b>		
Federal income tax at statutory rate	21.00%	21.00%
Change in state tax	1.99%	0.02%
Change in valuation allowance	-43.19%	-20.59%
Permanent differences	10.70%	-1.80%
State taxes	6.23%	2.05%
Other	3.27%	-0.68%
Effective income tax rate	0%	0%

The Company has gross net operating loss carryforwards for federal tax purposes totaling approximately \$13.3 million and \$4.4 million at December 31, 2023 and 2022 respectively, which will carry forward indefinitely. The Company has gross net operating loss carryforwards for state tax purposes totaling approximately \$11.0 million and \$1.45 million at December 31, 2023 and 2022 respectively, which will carry forward indefinitely.

NOLs that were acquired with the acquisition of businesses are excluded from the amount of available NOLs to the extent their use is limited by the provisions of Section 382 of the Internal Revenue Code. Under the provisions of the Internal Revenue Code, certain substantial changes in the Company's ownership may result in further limitation on the amount of net operating loss carryforwards which can be utilized in future years.

In evaluating the amount of the valuation allowance against its deferred tax assets as of December 31, 2023 and 2022, the Company considered all available positive and negative evidence and concluded that it is more likely than not that a portion of its deferred tax assets would not be realized. Accordingly, the Company has recorded a valuation allowance against its net deferred tax assets due to the uncertainty surrounding the realization of such assets.

The Company had no unrecognized tax benefits as of December 31, 2023 and 2022. The Company does not anticipate a significant change in total unrecognized tax benefits within the next 12 months. Tax years 2020-2022 remain open to examination by the major taxing jurisdictions to which the Company is subject.

#### Note 11 – Subsequent Events

On March 27, 2024, we executed a supplemental manufacturing and services agreement (the "Supplemental M&S Agreement") with Merrell Bros. as Merrell Bros. has indicated to us their intent to not renew the Original M&S Agreement and we have indicated our desire to relocate to a larger manufacturer facility with more square footage dedicated to expanding our manufacturing operations. Simultaneous to executing the Supplement M&S Agreement, Merrell Bros. provided us with a written non-renewal notice. Accordingly, the manufacturing and service agreement will terminate on its original expiration date of July 7, 2024 and will not be renewed.

The Supplemental M&S Agreement will become effective on July 7, 2024 and will replace the Original M&S Agreement. Under the Supplemental M&S Agreement, our relationship and the manufacturing services provided by Merrell Bros. will continue on an as needed basis based on statements of work to be agreed upon by both parties to fulfill future and current manufacturing orders. The term of the Supplemental M&S Agreement is one year from July 7, 2024 with a one-year renewal upon a mutually executed written extension. Either party may terminate this Supplement M&S Agreement upon written notice of such a termination, specifying the extent to which performance of work is terminated and the effective date of termination.

The Supplemental M&S Agreement will become effective on July 7, 2024 and will replace the Original M&S Agreement. Under the Supplemental M&S Agreement, our relationship and the manufacturing services provided by Merrell Bros. will continue on an as needed basis based on statements of work to be agreed upon by both parties to fulfill future and current manufacturing orders. The term of the Supplemental M&S Agreement is one year from July 7, 2024 with a one-year renewal upon a mutually executed written extension. Either party may terminate this Supplement M&S Agreement upon written notice of such a termination, specifying the extent to which performance of work is terminated and the effective date of termination.



## EXHIBIT INDEX

<a href="#">3.1</a>	<a href="#">Amended and Restated Certificate of Incorporation of Vyrex Corporation as filed with the Delaware Secretary of State on August 14, 2008 (previously filed on Form 10-Q for the quarter ended June 30, 2008, as filed with the SEC on August 19, 2008).</a>
<a href="#">3.2</a>	<a href="#">Certificate of Designation of Preferences, Rights and Limitations of PowerVerde, Inc. Series D Convertible Preferred Stock dated as of October 30, 2020, and filed April 16, 2021, with the Secretary of State of Delaware (previously filed on Form 8-K with the SEC on April 22, 2021).</a>
<a href="#">3.4</a>	<a href="#">Certificate of Merger of 374Water Acquisition Corp. into 374 Water Inc. filed April 16, 2021 with the Secretary of State of Delaware (previously filed on Form 8-K filed with the SEC on April 22, 2021).</a>
<a href="#">3.3</a>	<a href="#">Bylaws of Vyrex Corporation, dated as of September 9, 2005 (previously filed on Form 8-K filed with the SEC on October 21, 2005).</a>
<a href="#">10.1</a>	<a href="#">Agreement and Plan of Merger dated as of February 11, 2008 by and among Vyrex Corporation, Vyrex Acquisition Corporation and PowerVerde, Inc (previously filed on Form 8-K with the SEC on February 12, 2008).</a>
<a href="#">10.2</a>	<a href="#">Agreement and Plan of Merger dated as of April 16, 2021 among PowerVerde, Inc., 374Water Inc. and 374 Water Acquisition Corp. (previously filed on Form 8-K filed with the SEC on April 22, 2021).</a>
<a href="#">10.3</a>	<a href="#">Employment Agreement dated as of April 16, 2021 between PowerVerde, Inc. and Yaacov Nagar (previously filed on Form 8-K filed with the SEC on April 22, 2021).</a>
<a href="#">10.4</a>	<a href="#">First Amendment to Employment Agreement dated as of January 26, 2022 between 374 Water Inc. and Yaacov Nagar (previously filed on Form 8-K filed with the SEC on February 1, 2022).</a>
<a href="#">10.5</a>	<a href="#">Employment Agreement dated as of April 16, 2021 between PowerVerde, Inc. and Marc Deshusses, Ph.D. (previously filed on Form 8-K filed with the SEC on April 22, 2021).</a>
<a href="#">10.6</a>	<a href="#">License Agreement dated as of April 16, 2021 between 374Water Inc. and Duke University (previously filed on Form 8-K filed with the SEC on April 22, 2021).</a>
<a href="#">10.7</a>	<a href="#">Equity Transfer Agreement dated as of April 16, 2021 between 374Water Inc. and Duke University (previously filed on Form 8-K filed with the SEC on April 22, 2021).</a>
<a href="#">10.8</a>	<a href="#">Binding Memorandum of Understanding dated March 30, 2021 between 374Water Inc. and MB Holding Inc. (previously filed on Form 8-K filed with the SEC on April 22, 2021).</a>
<a href="#">10.9</a>	<a href="#">Manufacturing and Service Agreement, dated as of July 7, 2021, by and between 374Water Systems Inc. and Merrell Bros. Fabrication, LLC (previously filed on Form 8-K filed with the SEC on July 13, 2021).</a>
<a href="#">10.10</a>	<a href="#">Form of Accredited Investor Subscription Agreement (including the form of Warrant for the Purchase of Common Stock) for the December 17, 2021 private placement closing (previously filed on Form 8-K filed with the SEC on December 23, 2021).</a>
<a href="#">10.11</a>	<a href="#">Form of Board of Directors Agreement (previously filed on Form 8-K filed with the SEC on June 16, 2022).</a>
<a href="#">10.12</a>	<a href="#">Open Market Sale Agreement<sup>SM</sup> dated December 21, 2022 by and between 374Water Inc. and Jefferies LL (previously filed on Form S-3 filed with the SEC on December 22, 2022).</a>
<a href="#">10.13</a>	<a href="#">Supplemental Manufacturing and Services Agreement dated March 27, 2024 by and between 374Water Systems, Inc. and Merrell Bros. Fabrication, LLC.*</a>
<a href="#">21.1</a>	<a href="#">Subsidiaries of the Company.*</a>
<a href="#">23.1</a>	<a href="#">Consent of Cherry Bekaert LLP*</a>
<a href="#">31.1</a>	<a href="#">Certification of the Chief Executive Officer under Section 302 of the Sarbanes-Oxley Act of 2002. *</a>
<a href="#">31.2</a>	<a href="#">Certification of the Chief Financial Officer under Section 302 of the Sarbanes-Oxley Act of 2002. *</a>
<a href="#">32.1</a>	<a href="#">Certification of the Chief Executive Officer under Section 906 of the Sarbanes-Oxley Act of 2002. *</a>
<a href="#">32.2</a>	<a href="#">Certification of the Chief Financial Officer under Section 906 of the Sarbanes-Oxley Act of 2002. *</a>
<a href="#">97</a>	<a href="#">374Water Inc. Policy for the Recovery of Erroneously Awarded Compensation, effective December 1, 2023. *</a>

\* Filed herewith.

SIGNATURES

In accordance with Section 13 or 15(d) of the Exchange Act, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized.

374WATER INC.

Dated: March 29, 2024

by: /s/ Jeffrey M. Quick  
Jeffrey M. Quick  
Interim Chief Executive Officer and Interim Principal Executive Officer

In accordance with the Exchange Act, this Report has been *signed* by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Jeffrey M. Quick</u>	Interim Chief Executive Officer and Principal Executive Officer	March 29, 2024
<u>/s/ Adrienne Anderson</u>	Chief Financial Officer	March 29, 2024
<u>/s/ Yaacov Nagar</u>	Director	March 29, 2024
<u>/s/ Richard Davis</u>	Director	March 29, 2024
<u>/s/ Terry Merrell</u>	Director	March 29, 2024
<u>/s/ Deanna Rene Estes</u>	Director	March 29, 2024
<u>/s/ Buddie Joe Penn</u>	Director	March 29, 2024
<u>/s/ Yizhaq Polad</u>	Director	March 29, 2024
<u>/s/ James M. Vanderhider</u>	Director	March 29, 2024

## SUPPLEMENTAL MANUFACTURING AND SERVICES AGREEMENT

This Supplemental Manufacturing and Services Agreement (this "**Agreement**"), is dated as of March 27th, 2024 and will be effective as of July 7, 2024 (the "**Effective Date**"), is entered into by and between 374Water Systems, Inc., a Delaware corporation, having an address at 3710 Shannon Road, #51788, Durham, NC 27717 ("**374Water**"), and Merrell Bros. Fabrication, LLC, an Indiana limited liability company, having a place of business at 8811 West 500 North, Kokomo, Indiana 46901 ("**Manufacturer**").

## BACKGROUND

374Water and Manufacturer are parties to that certain Manufacturing and Service Agreement dated July 7, 2021 (the "**Original Agreement**"). The Original Agreement automatically renews for additional one (1) year periods term on July 7, 2024 unless either 374Water or Manufacturer provide the other party sixty (60) day prior written of non-renewal of the Original Agreement. Manufacturer has indicated to 374Water its intent to provide such notice to 374Water and 374Water has indicated to Manufacturer its desire to relocate to a larger manufacturing facility with more square footage dedicated to 374Water's expanding operations. Manufacturer agrees that 374Water has outgrown Manufacturer's available facilities, capacity, and square footage requirements. Both parties desire to continue their relationship with each other and for Manufacturer to be available on an as needed basis in the event that future or current manufacturing orders exceed 374Water's ability to fulfill themselves on a timely basis. As such, the parties have entered into this Agreement to replace the Original Agreement as of the Effective Date referenced above.

1. Effectiveness; Term. This Agreement shall commence as of the Effective Date herein and shall continue for one (1) year (the "**Initial Term**"). Following the expiration of the Initial Term this Agreement may be renewed for additional one (1) year periods upon a mutual, executed written extension between 374Water and Manufacturer.

2. Work Order.

2.1 "**Work Order**" means the Work Order in the form attached hereto as Exhibit A.

2.2 No Work Order shall be effective unless and until agreed to in writing and executed by both 374Water and Manufacturer. Until such time that a Work Order is issued, Manufacturer is not entitled to provisions relating to licensing, intellectual property, manufacturing, or any other confidential information. If a Work Order is issued under this agreement, it may, but is not required to, contain terms and provisions relating to licensing, intellectual property, manufacturing, confidential information and other matters to which 374Water and Manufacturer mutually agree.

3. Invoicing. Manufacturer shall invoice 374Water on the timeframes set forth in each Work Order.

4. Termination for Convenience. Performance of work under this Contract may be terminated by 374Water or the Manufacturer in accordance with this clause, in whole or in part, whenever either party shall determine that such termination is in the best interest of their respective interests. Any such termination shall be affected by delivery to the other party of a written Notice of Termination, specifying the extent to which performance of work is terminated and the effective date of termination.

---

5. Waiver. It is agreed that no waiver by either party hereto of any breach or default of any of the covenants or agreements herein set forth shall be deemed a waiver as to any subsequent and/or similar breach or default.

6. Assignments. No party may without written approval of the other party, such approval not to be unreasonably withheld, assign this Agreement or transfer its interest or any part thereof under this Agreement to any third party.

7. Independent Contractors. It is understood that the parties hereto are independent contractors and engage in the operation of their own respective businesses and no party is to be considered the agent of the other party for any purpose whatsoever and no party has any authority to enter into any contract or assume any obligation for the other parties or to make any warranty or representation on behalf of the other party(ies). Each party shall be fully responsible for its own employees and consultants, and the employees of one party shall not be deemed to be employees of either other party for any purpose whatsoever.

#### 8. Miscellaneous

8.1 Governing Law. This Agreement shall be governed, construed, interpreted and enforced in all respects in accordance with the laws of the State of Delaware, without regard to its conflict of laws and choice of law rules, and shall be binding upon the parties hereto regardless of their location throughout the world. All disputes with respect to the Agreement shall be brought and heard either in the Delaware state courts, or the federal district court for the District of Delaware. The Parties each consent to the jurisdiction and venue of such courts. The Parties agree that service of process upon them in any such action may be made if delivered in person, by courier service or by first class mail, and shall be deemed effectively given upon receipt.

8.2 Notices. Any and all notices given under this Agreement shall be in writing and to the respective parties at the following addresses by nationally recognized overnight courier:

If to Manufacturer:

Merrell Bros. Fabrication, LLC  
8811 West 500 North  
Kokomo, Indiana 46901  
Attn: Terry Merrell  
terry@merrellbros.com

If to 374Water:

374Water Systems, Inc.  
3710 Shannon Road, #51788  
Durham, NC 27717  
Attn: Jeffrey M. Quick  
jq@374water.com  
\_\_\_\_\_

or to such other addresses as may be subsequently furnished by one party to the other in writing. Any such notice shall be deemed to have been given on the day following the dispatch.

8.3 Severability. In the event one or more terms of this Agreement are declared by any individual or competent authority to be void, voidable, illegal or otherwise un-enforceable, the remaining provisions of this Agreement shall remain in full force and effect. The invalid or unenforceable part or provision shall be replaced with a provision which accomplishes, to the extent possible, the original business purpose of such invalid or unenforceable part or provision in a commercially reasonable, valid and enforceable manner, and the remainder of this Agreement shall remain binding upon the parties hereto. The parties hereto shall negotiate in good faith to modify this Agreement, but only to the extent necessary to make the terms of this Agreement valid and enforceable, having full regard for all Applicable Laws and the intent and purposes of the parties entering into this Agreement.

8.4 Complete Agreement. This Agreement, including the Exhibits, whether appended at the time of execution of this Agreement or later, and the Original Agreement as provided herein constitutes the entire Agreement between parties hereto relating to the subject matter hereof, and this Agreement may not be amended, modified, or supplemented unless such amendment is in writing and duly executed by the parties.

8.5 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall comprise the original instrument.

[Signature page to follow.]

IN WITNESS WHEREOF, Manufacturer and 374Water have executed this Supplemental Manufacturing and Services Agreement by their respective officers hereunto duly authorized, the day and year first above written.

Merrell Bros. Fabrication, LLC

374Water Systems, Inc.

By: /s/ Terry Merrell

By: /s/ Jeffrey M. Quick

Name: Terry Merrell

Name: Jeffrey M. Quick

Title Treasurer

Title: Interim Chief Executive Officer

**EXHIBIT A**  
**FORM OF WORK ORDER**

Date:

Compensation and Payment Schedule:

Unit to be Manufactured:

Services to be Performed:

Allowable Activity Categories:

Unit Specifications:

Other Provisions:

IN WITNESS WHEREOF, Manufacturer and 374Water have executed this Work Order by their respective officers hereunto duly authorized, the day and year first above written.

Merrell Bros. Fabrication, LLC

374Water Systems, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

Title: \_\_\_\_\_

Subsidiaries of the Registrant

Name of Subsidiary	State or Country of Organization
374Water Systems, Inc.	Delaware
374Water Sustainability LTD	Israel



**Consent of Independent Registered Public Accounting Firm**

We hereby consent to the incorporation by reference in the Registration Statement on Form S-3 (No. 333-268942) of our report dated March 29, 2024 included in this Annual Report on Form 10-K of 374Water Inc. and subsidiaries (collectively, the "Company"), relating to the consolidated balance sheets of the Company as of December 31, 2023 and 2022, and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for each of the years in the two-year period ended December 31, 2023.

/s/ Cherry Bekaert LLP

Raleigh, North Carolina  
March 29, 2024

**CERTIFICATION PURSUANT TO  
18 USC, SECTION 1350, AS ADOPTED PURSUANT TO  
SECTIONS 302 AND 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Jeffrey M. Quick, certify that:

1. I have reviewed this Form 10-K of 374Water Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is 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.

Dated: March 29, 2024

/s/ Jeffrey M. Quick

Jeffrey M. Quick, Interim Chief Executive Officer  
(Interim Principal Executive Officer)

**CERTIFICATION PURSUANT TO  
18 USC, SECTION 1350, AS ADOPTED PURSUANT TO  
SECTIONS 302 AND 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Adrienne Anderson, certify that:

1. I have reviewed this Form 10-K of 374Water Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is 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.

Dated: March 29, 2024

/s/ Adrienne Anderson

Adrienne Anderson , Chief Financial Officer  
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of 374Water Inc. (the "Company") on Form 10-K for the period ended December 31, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jeffery M. Quick, Interim Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

*/s/ Jeffery M. Quick*

Jeffrey M. Quick

Interim Chief Executive Officer (Interim Principal Executive Officer)

Dated: March 29, 2024

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of 374Water Inc. (the "Company") on Form 10-K for the period ended December 31, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Adrienne Anderson, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Adrienne Anderson

Adrienne Anderson

Chief Financial Officer (Principal Financial Officer)

Dated: March 29, 2024

---

**374WATER INC.****POLICY FOR THE  
RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION**

---

**A. OVERVIEW**

In accordance with the applicable rules of The Nasdaq Stock Market (the "**Nasdaq Rules**"), Section 10D and Rule 10D-1 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") ("**Rule 10D-1**"), 374WATER INC. (the "**Company**") has adopted this Policy (the "**Policy**") to provide for the recovery of erroneously awarded Incentive-based Compensation from Executive Officers. All capitalized terms used and not otherwise defined herein shall have the meanings set forth in Section H, below.

**B. RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION**

(1) In the event of an Accounting Restatement, the Company will reasonably promptly recover the Erroneously Awarded Compensation Received in accordance with Nasdaq Rules and Rule 10D-1 as follows:

- (i) After an Accounting Restatement, the Compensation Committee (if composed entirely of independent directors, or in the absence of such a committee, a majority of independent directors (the "**Committee**") serving on the Board of Directors (the "**Board**") shall determine the amount of any Erroneously Awarded Compensation Received by each Executive Officer and shall promptly notify each Executive Officer with a written notice containing the amount of any Erroneously Awarded Compensation and a demand for repayment or return of such compensation, as applicable.
- (a) For Incentive-based Compensation based on (or derived from) the Company's stock price or total shareholder return, where the amount of Erroneously Awarded Compensation is not subject to mathematical recalculation directly from the information in the applicable Accounting Restatement:
  - i. The amount to be repaid or returned shall be determined by the Committee based on a reasonable estimate of the effect of the Accounting Restatement on the Company's stock price or total shareholder return upon which the Incentive-based Compensation was Received; and
  - ii. The Company shall maintain documentation of the determination of such reasonable estimate and provide the relevant documentation as required to the Nasdaq.
- (ii) The Committee shall have discretion to determine the appropriate means of recovering Erroneously Awarded Compensation based on the particular facts and circumstances. Notwithstanding the foregoing, except as set forth in Section B(2) below, in no event may the Company accept an amount that is less than the amount of Erroneously Awarded Compensation in satisfaction of an Executive Officer's obligations hereunder.

- (iii) To the extent that the Executive Officer has already reimbursed the Company for any Erroneously Awarded Compensation Received under any duplicative recovery obligations established by the Company or applicable law, it shall be appropriate for any such reimbursed amount to be credited to the amount of Erroneously Awarded Compensation that is subject to recovery under this Policy.
- (iv) To the extent that an Executive Officer fails to repay all Erroneously Awarded Compensation to the Company when due, the Company shall take all actions reasonable and appropriate to recover such Erroneously Awarded Compensation from the applicable Executive Officer. The applicable Executive Officer shall be required to reimburse the Company for any and all expenses reasonably incurred (including legal fees) by the Company in recovering such Erroneously Awarded Compensation in accordance with the immediately preceding sentence.

(2) Notwithstanding anything herein to the contrary, the Company shall not be required to take the actions contemplated by Section B(1) above if the Committee (which, as specified above, is composed entirely of independent directors or in the absence of such a committee, a majority of the independent directors serving on the Board) determines that recovery would be impracticable *and* any of the following two conditions are met:

- (i) The Committee has determined that the direct expenses paid to a third party to assist in enforcing the Policy would exceed the amount to be recovered. Before making this determination, the Company must make a reasonable attempt to recover the Erroneously Awarded Compensation, document such attempt(s) and provided such documentation to the Nasdaq; or
- (ii) Recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the requirements of Section 401(a)(13) or Section 411(a) of the Internal Revenue Code of 1986, as amended, and regulations thereunder.

#### C. DISCLOSURE REQUIREMENTS

The Company shall file all disclosures with respect to this Policy required by applicable U.S. Securities and Exchange Commission ("**SEC**") filings and rules.

#### D. PROHIBITION OF INDEMNIFICATION

The Company shall not be permitted to insure or indemnify any Executive Officer against (i) the loss of any Erroneously Awarded Compensation that is repaid, returned or recovered pursuant to the terms of this Policy, or (ii) any claims relating to the Company's enforcement of its rights under this Policy. Further, the Company shall not enter into any agreement that exempts any Incentive-based Compensation that is granted, paid or awarded to an Executive Officer from the application of this Policy or that waives the Company's right to recovery of any Erroneously Awarded Compensation, and this Policy shall supersede any such agreement (whether entered into before, on or after the Effective Date of this Policy).

#### E. ADMINISTRATION AND INTERPRETATION

This Policy shall be administered by the Committee, and any determinations made by the Committee shall be final and binding on all affected individuals.

The Committee is authorized to interpret and construe this Policy and to make all determinations necessary, appropriate, or advisable for the administration of this Policy and for the Company's compliance with Nasdaq Rules, Section 10D, Rule 10D-1 and any other applicable law, regulation, rule or interpretation of the SEC or Nasdaq promulgated or issued in connection therewith.

#### F. AMENDMENT; TERMINATION

The Committee may amend this Policy from time to time in its discretion and shall amend this Policy as it deems necessary. Notwithstanding anything in this Section F to the contrary, no amendment or termination of this Policy shall be effective if such amendment or termination would (after taking into account any actions taken by the Company contemporaneously with such amendment or termination) cause the Company to violate any federal securities laws, SEC rule or Nasdaq rule.

#### G. OTHER RECOVERY RIGHTS

This Policy shall be binding and enforceable against all Executive Officers and, to the extent required by applicable law or guidance from the SEC or Nasdaq, their beneficiaries, heirs, executors, administrators or other legal representatives. The Committee intends that this Policy will be applied to the fullest extent required by applicable law. Any employment agreement, equity award agreement, compensatory plan or any other agreement or arrangement with an Executive Officer shall be deemed to include, as a condition to the grant of any benefit thereunder, an agreement by the Executive Officer to abide by the terms of this Policy. Any right of recovery under this Policy is in addition to, and not in lieu of, any other remedies or rights of recovery that may be available to the Company under applicable law, regulation or rule or pursuant to the terms of any policy of the Company or any provision in any employment agreement, equity award agreement, compensatory plan, agreement or other arrangement.

#### H. DEFINITIONS

For purposes of this Policy, the following capitalized terms shall have the meanings set forth below.

(1) "**Accounting Restatement**" means an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements (a "Big R" restatement), or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period (a "little r" restatement).



(2) "**Clawback Eligible Incentive Compensation**" means all Incentive-based Compensation Received by an Executive Officer (i) on or after the effective date of the applicable Nasdaq rules, (ii) after beginning service as an Executive Officer, (iii) who served as an Executive Officer at any time during the applicable performance period relating to any Incentive-based Compensation (whether or not such Executive Officer is serving at the time the Erroneously Awarded Compensation is required to be repaid to the Company), (iv) while the Company has a class of securities listed on a national securities exchange or a national securities association, and (v) during the applicable Clawback Period (as defined below).

(3) "**Clawback Period**" means, with respect to any Accounting Restatement, the three completed fiscal years of the Company immediately preceding the Restatement Date (as defined below), and if the Company changes its fiscal year, any transition period of less than nine months within or immediately following those three completed fiscal years.

(4) "**Erroneously Awarded Compensation**" means, with respect to each Executive Officer in connection with an Accounting Restatement, the amount of Clawback Eligible Incentive Compensation that exceeds the amount of Incentive-based Compensation that otherwise would have been Received had it been determined based on the restated amounts, computed without regard to any taxes paid.

(5) "**Executive Officer**" means each individual who is currently or was previously designated as an "officer" of the Company as defined in Rule 16a-1(f) under the Exchange Act. For the avoidance of doubt, the identification of an executive officer for purposes of this Policy shall include each executive officer who is or was identified pursuant to Item 401(b) of Regulation S-K or Item 6.A of Form 20-F, as applicable, as well as the principal financial officer and principal accounting officer (or, if there is no principal accounting officer, the controller).

(6) "**Financial Reporting Measures**" means measures that are determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and all other measures that are derived wholly or in part from such measures. Stock price and total shareholder return (and any measures that are derived wholly or in part from stock price or total shareholder return) shall, for purposes of this Policy, be considered Financial Reporting Measures. For the avoidance of doubt, a Financial Reporting Measure need not be presented in the Company's financial statements or included in a filing with the SEC.

(7) "**Incentive-based Compensation**" means any compensation that is granted, earned or vested based wholly or in part upon the attainment of a Financial Reporting Measure.

(8) "**Nasdaq**" means The Nasdaq Stock Market.

(9) "**Received**" means, with respect to any Incentive-based Compensation, actual or deemed receipt, and Incentive-based Compensation shall be deemed received in the Company's fiscal period during which the Financial Reporting Measure specified in the Incentive-based Compensation award is attained, even if the payment or grant of the Incentive-based Compensation to the Executive Officer occurs after the end of that period.

(10) "**Restatement Date**" means the earlier to occur of (i) the date the Board, a committee of the Board or the officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an Accounting Restatement, or (ii) the date a court, regulator or other legally authorized body directs the Company to prepare an Accounting Restatement.

Effective as of December 1, 2023

Exhibit A

ATTESTATION AND ACKNOWLEDGEMENT OF POLICY FOR THE RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION

By my signature below, I acknowledge and agree that:

- I have received and read the attached Policy for the Recovery of Erroneously Awarded Compensation (this "*Policy*").
- I hereby agree to abide by all of the terms of this Policy both during and after my employment with the Company, including, without limitation, by promptly repaying or returning any Erroneously Awarded Compensation to the Company as determined in accordance with this Policy.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

---