Risk Factors Comparison 2024-02-28 to 2023-02-28 Form: 10-K

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Investing in our securities involves a high degree of risk. Investors should carefully consider the risks described below and all of the other information we file with the SEC before deciding to invest in our common stock. If any of the events or developments described below occur, our business, prospects, financial condition, or results of operations could be materially or adversely affected. As a result, the market price of our common stock could decline, and investors could lose all or part of their investment. The risks and uncertainties described below are not the only risks and uncertainties that we face. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our business operations. The risks discussed below also include forward- looking statements, and our actual results may differ substantially from those discussed in these forward- looking statements. See " Cautionary Note Regarding Forward- Looking Statements " above. Risk Factor Summary Our business is subject to a number of risks and uncertainties, including those highlighted immediately following this summary. Some of these risks are: • We may be adversely affected by fluctuations in demand for, and prices of, **REE** ~~rare earth minerals~~ and ~~products, alloy flake and magnets~~ **magnet materials** . • The success of our business will depend, in part, on the growth of existing and emerging uses for rare earth products. • An increase in the global supply of rare earth products, dumping, predatory pricing and other tactics designed to inhibit our further downstream integration by our competitors may materially adversely affect our profitability. • We operate in a highly competitive industry **. • Our ability to generate revenue will be diminished if we are unable to compete with substitutions for our rare earth materials** . • We currently rely on Shenghe to purchase the vast majority of our rare earth concentrate product on a " take- or- pay " basis and sell that product to end users in China; we cannot assure you that they will continue to honor their contractual obligations to purchase and sell our products, or that they will make optimum efforts to market and sell our products. • Changes in China' s political environment and policies, including changes in export policy or the interpretation of China' s export policy and policy on rare earths production or the import of rare earth feedstock, may adversely affect our financial condition and results of operations. • The production of rare earth products is a capital- intensive business **that** ~~and will require~~ **requires** the commitment of substantial resources ~~and~~ **;** if we do not have sufficient resources to provide for such production, it could have a material adverse effect on our financial condition or results of operations. • Our continued growth depends on our ability to ~~successfully complete and commission~~ **reach anticipated production rates for the separation of REE as part of** the Stage II project at Mountain Pass, our only rare earth mining and processing facility. • The production of ~~alloy flake and magnets~~ **magnet materials** in Stage III is dependent upon ~~the successful completion and commissioning of our Stage II project and~~ our ability to complete the ~~construction~~ **buildout** of our Fort Worth Facility; an unanticipated delay in the completion of Stage ~~II or Stage~~ III could have a material adverse effect on our ability to produce ~~alloy flake and~~ magnets. • ~~We may not be able to adequately protect our intellectual property rights. If we fail to adequately enforce or defend our intellectual property rights, our business may be harmed.~~ If we infringe, or are accused of infringing, the intellectual property rights of third parties, it may increase our costs or prevent us from being able to commercialize new products **. • We may not be able to adequately protect our intellectual property rights. If we fail to adequately enforce or defend our intellectual property rights, our business may be harmed** . • If we are unable to perform the obligations under our long- term supply agreement with GM, this ~~may~~ **could** have a material adverse effect on our financial position and results of operations. • We may not be able to convert current commercial discussions with customers for the sale of **REO** ~~rare earth~~ products into contracts, which may have a material adverse effect on our financial position and results of operations. • ~~The COVID- 19 pandemic~~ **We may not successfully establish or maintain collaborative** , **joint venture and licensing arrangements, which could adversely affect** ~~or~~ **our** ~~other~~ **ability to vertically integrate into further downstream processing of our REO. •** ~~outbreaks~~ **Outbreaks** , epidemics or pandemics ~~,~~ could have an adverse effect on our business. • We are subject to a number of operational risks of our business, including power outages or shortages at the Mountain Pass facility; increasing costs or limited access to raw materials; disruptions in transportation or other services; inability to process REO that meet individual customer specifications; access to water; uncertainty in our estimates of REO reserves; labor matters / labor relations; cybersecurity breaches; and / or environmental, social and governance (" ESG ") matters. • **We are subject to regulatory and business risks associated with our investment in VREX Holdco Pte. Ltd. (" VREX Holdco "). •** The conditional conversion feature of our Convertible Notes **(as defined in Note 10, " Debt Obligations " in the notes to the Consolidated Financial Statements)** , if triggered, may adversely affect our financial condition and operating results. • Conversion of our Convertible Notes may dilute the ownership interest of our stockholders or may otherwise depress the price of our common stock. • Certain provisions in the indenture governing the Convertible Notes may delay or prevent an otherwise beneficial takeover attempt of us. • Servicing our debt requires a significant amount of cash, and we may not have sufficient cash flow from our business to pay our debt. Risks Relating to our Business and Industry Because our revenue is, and will be for the foreseeable future, from the sale of rare earth products, changes in demand for, and the market price of, and taxes and other tariffs and fees imposed upon **REE** ~~rare earth minerals~~ and ~~products~~ **magnet materials** could significantly affect our profitability. Our financial results may be significantly adversely affected by declines in the prices of **REE** ~~rare earth minerals~~ and ~~products~~ **magnet materials** . ~~Rare earth mineral~~ **For example, as a result of the decrease in the market price of NdPr oxide in 2023, our Realized Price per REO MT (as defined in Item 7. Management' s Discussion** and ~~product~~ **Analysis of Financial Condition and Results of Operations) decreased from $ 11, 974 for the year ended December 31, 2022, to $ 6, 854 for the year ended December 31, 2023, which negatively impacted our results of operations and cash flows. REE and magnet material** prices may fluctuate and are affected by numerous factors beyond our control such as interest rates, exchange rates, taxes, inflation or deflation, fluctuation in the relative value of the U. S. dollar against foreign currencies on the world market, shipping and other transportation and logistics costs, global and regional supply and demand for rare earth minerals and products, potential industry trends, such as competitor consolidation or other integration methodologies, and the political and economic conditions of countries that produce and procure **REE** ~~rare earth minerals~~ and ~~products~~ **magnet materials** . Furthermore, supply side factors have a significant influence on price volatility for ~~rare earth minerals~~ **REE and magnet materials** . Supply of ~~rare earth minerals~~ **REE and magnet materials** is dominated by Chinese producers. The Chinese Central Government regulates production via quotas and environmental standards, and, to a lesser extent, regulation of imports, and has and may continue to change such production quotas, environmental standards, and import regulations. Over the past few years, there has been significant restructuring of the Chinese market in line with Chinese Central Government policy; however, periods of over- supply or speculative trading of ~~rare earth minerals~~ **REE and magnet materials** can lead to significant fluctuations in the market price of **such products** ~~rare earth minerals~~ . A prolonged or significant economic contraction in the ~~United States~~ **U. S., China,** or worldwide could put downward pressure on market prices of **REE** ~~rare earth minerals~~ and ~~products~~ **magnet materials** . Protracted periods of low prices for **REE** ~~rare earth minerals~~ and ~~products~~ **magnet materials** could significantly reduce revenues and the availability of required development funds in the future. This could cause substantial reductions to, or a suspension of, REO production operations, impair asset values and reduce our proven and probable rare earth ore reserves. Demand for our products may be impacted by demand for downstream products incorporating rare earths, including hybrid and electric vehicles, wind turbines, robotics, medical equipment, military equipment and other high- growth, advanced motion technologies, as well as demand in the general automotive and ~~electronic~~ **electronics** industries. Lack of growth in these markets may adversely affect the demand for our products. In contrast, extended periods of high commodity prices may create economic dislocations that may be destabilizing to ~~rare earth minerals~~ **REE and magnet material** supply and demand and ultimately to the broader markets. Periods of high **REE** ~~rare earth mineral~~ market prices generally are beneficial to our financial performance. However, strong **REE** ~~rare earth mineral~~ prices also create economic pressure to identify or create alternate technologies that ultimately could depress ~~future~~ long- term demand for rare earth minerals and products, and at the same time may incentivize development of competing mining properties. Our strategy is to produce ~~rare earth~~ **REE and magnet** products that are used in critical existing and emerging technologies, such as hybrid and electric vehicles, wind turbines, robotics, medical equipment, military equipment and other high- growth, advanced motion technologies. The success of our business depends on the continued growth of these end markets and the successful commercialization of rare earth products, including NdPr, in such markets. If the market for these critical existing and emerging technologies does not grow as we expect, grows more slowly than we expect, or if the demand for our products in these markets decreases, then our business, prospects, financial condition and operating results could be harmed. In addition, the market for these technologies, particularly in the automotive industry, tends to be cyclical, which exposes us to increased volatility, and it is uncertain as to how such macroeconomic factors will impact our business. Any unexpected costs or delays in the ~~commercialization~~ **manufacturing** of separated REE products or rare earth magnets, or less than expected demand for the critical existing and emerging technologies that use rare earth products, could have a material adverse effect on our financial condition or results of operations. The pricing and demand for rare earth products is affected by a number of factors beyond our control, including the global macroeconomic environment and the global supply and demand for REO products. China accounts for the significant majority of global separated REO production and also dominates the manufacture of metals and NdFeB magnets from rare earths, capabilities that are not currently present in the **U. S** ~~United States, and the Chinese Central Government regulates production via quotas and environmental standards~~ . Over the past few years, there has been significant restructuring of the Chinese **rare earth** ~~markets in line with China Central Government policy. Assuming that we reach anticipated~~ production **industry, further centralizing control over** ~~rates for REO and other planned downstream products~~ **production by state- owned enterprises. Chinese** ~~and subsequently become fully operational and integrated, the increased competition may lead our~~ competitors ~~to~~ **may** engage in predatory pricing or other behaviors designed to inhibit our further downstream integration. Any increase in the amount of rare earth products exported from other nations and increased competition may result in price reductions, reduced margins or loss of potential market share, any of which could materially adversely affect our profitability. As a result of these factors, we may not be able to compete effectively against current and future competitors. The rare earth mining and processing and ~~rare earth magnetics~~ --- **magnet** ~~markets are~~ **manufacturing industry is** capital intensive ~~and~~ **with** competitive **market dynamics** . Production of **REE** ~~rare earths~~ and ~~related~~ **magnet** products is dominated by our Chinese competitors. These competitors may have greater financial resources, as well as other strategic advantages to operate, maintain, improve and possibly expand their facilities. Additionally, our Chinese competitors have historically been able to produce at relatively low costs due to domestic economic and regulatory factors, including less stringent environmental and governmental regulations and lower labor and benefit costs. **If** ~~Even upon successful completion of Stage II at Mountain Pass, if~~ we are not able to achieve consistent product quality at our anticipated costs of production, then any strategic advantages that our competitors may have over us, including, without limitation, lower labor, compliance and production costs, could have a material adverse effect on our business. Industry consolidation may result in increased competition, which could result in a reduction in revenue. Some of our competitors have made, or may make, acquisitions or enter into partnerships or other strategic relationships to achieve competitive advantages. In addition, new entrants not currently considered competitors may enter our market through acquisitions, partnerships or strategic relationships. We expect these trends to continue as demand for rare earth materials increases. Industry consolidation may result in competitors with more compelling product offerings or greater pricing flexibility than we have, or business practices that make it more difficult for us to compete effectively, including on the basis of price, sales, technology or supply. For example, in December 2021, China merged three state entities to establish the China Rare Earth Group Co. Ltd (“ China Rare Earth Group ”), that will account for more than half of China’ s heavy rare earths supplies. China Rare Earth Group will have enhanced pricing power of key rare earths, such as dysprosium and terbium, which will likely bring changes to the global rare earth supply chain. These competitive pressures could have a material adverse effect on our business. ~~Our ability to generate revenue will be diminished if we are unable to compete with substitutions for our rare earth materials.~~ Technology changes rapidly in the industries and end markets that utilize our materials. If these industries introduce new technologies or products that no longer require the rare earth materials or NdFeB magnets we produce or may produce in the future, or suitable substitutes become available, ~~it~~ **this** could result in a decline in demand for our rare earth materials or NdFeB magnets. If the demand for our rare earth materials or NdFeB magnets decreases, it will have a material adverse effect on our business and the results of our operations ~~and financial condition. We currently rely on Shenghe to purchase the vast majority of our rare earth concentrate product on a " take- or- pay " basis and sell that product to end users in China. We cannot assure you that they will continue to honor their contractual obligations to purchase and sell our products, or that they will make optimum efforts to market and sell our products~~ . We currently sell the vast majority of our rare earth concentrate to Shenghe, which typically sells that product to refiners in China. Demand for rare earth concentrate is currently constrained to a relatively limited number of refiners, a significant majority of which are based in China. While Shenghe is obligated under the Offtake Agreement to purchase all of the rare earth concentrate product meeting certain minimum specifications on a " take- or- pay " basis (such that they are obliged to pay for product even if they are unable or unwilling to take delivery), we cannot guarantee that Shenghe will continue to purchase all of the products that it is contractually bound to purchase or that they will purchase products that do not meet these specifications. **In January 2024, the Company entered into the New Offtake Agreement that replaced and extended the Offtake Agreement.** The initial term of the **New** Offtake Agreement is two years ~~and expires on March 10, 2024~~ , with the option **for the Company** to extend the term ~~at the Company' s discretion~~ for an additional one- year period **. The terms of the New Offtake Agreement are substantially the same as those of the Offtake Agreement with the exception of the addition of NdPr metal into the definition of non- concentrate rare earth products** . Further, Shenghe sells the rare earth concentrate it acquires under the Offtake Agreement to customers in China who separate and extract the individual rare earth elements. We do not control the amount and timing of resources that Shenghe will dedicate to their sales efforts. Therefore, any decline or delay in Shenghe' s sales efforts could reduce sales prices or sales volumes, which could have an adverse impact on our ~~results of operations. To the extent we utilize Shenghe, we are also subject to the risks faced by Shenghe where such risks impede their ability to stay in business, make timely payments to us, perform their obligations to us, or sell our products to their end- customers. Changes in China' s political environment and policies, including changes in export policy or the interpretation of China' s export policy and policy on rare earths production or the import of rare earth feedstock may adversely affect our financial condition and~~ results of operations. Because the vast majority of our rare earth concentrate product is currently sold to Shenghe under our Offtake Agreement for further processing by third- party customers in China, the possibility of adverse changes in trade or political relations with China, political instability in China, increases in labor or shipping costs, subsidies to related industries, the occurrence of prolonged adverse weather conditions or a natural disaster such as an earthquake or typhoon, or **an** ~~the continuation of COVID- 19 or the~~ outbreak of ~~another~~ **a** global pandemic disease could severely interfere with the sale and / or shipment of our products and would have a material adverse effect on our operations. Our sales may be adversely affected by the current and future political environment in China and the policies of the China Central Government. China' s government has exercised and continues to exercise substantial control over **many** ~~nearly all~~ sectors of the Chinese economy through regulation and state ownership. Our ability to ~~ship~~ **sell** products to **customers in China or obtain materials from suppliers in** China may be adversely affected by changes in Chinese laws and regulations, including those relating to taxation, import and export tariffs **and regulations** , raw materials, environmental regulations, land use rights, property and other matters. The ~~United States~~ **U. S.** Government has instituted substantial changes to foreign trade policy with China and has ~~raised~~ **assessed punitive** tariffs on ~~several~~ **many categories of** Chinese goods. China has retaliated with increased tariffs on ~~United States~~ **U. S.** goods. Any further changes in ~~United States~~ **U. S.** trade policy could trigger retaliatory actions by affected countries, including China, resulting in trade wars. Any changes in ~~United States~~ **U. S.** and China relations, including through changes in policies by the Chinese government **,** could adversely affect our financial condition and results of operations, including changes in laws, regulations or the interpretation thereof, confiscatory taxation, governmental royalties, restrictions on currency conversion, imports or sources of supplies, or the expropriation or nationalization of private enterprises. In addition, there may be circumstances where we may have to incur premium freight charges to expedite the delivery of our products to customers ~~or as a result of being required~~ to ~~ship to alternative ports~~ **overcome non- tariff restrictions or** due to **evolving rules** ~~local Chinese government regulations~~ or delays at the ports that we typically utilize. If we incur a significant amount of freight charges, our gross profit will be negatively affected if we are unable to pass on those charges to customers. In addition, we may be adversely affected by ~~shipments~~ **the need** to ~~such~~ **ship to** alternative ports **. This could lead to potential** ~~, including that these shipments may be delayed~~ **delays in the transportation of our goods, which may occur** for any reason or as they are affected by domestic or international laws and regulations, taxation, import and export tariffs, environmental regulations, customs and other ~~matters~~ **relevant factors** . ~~The~~ **Our ability to reach anticipated** production **rates as part** ~~of rare earth products is a capital- intensive business and requires the commitment of substantial resources. Unanticipated costs or delays associated with our ongoing Stage II project could have a material adverse effect on our financial condition or results of operations. The completion and commissioning~~ of our Stage II project at Mountain Pass **, the completion of our Stage III project, as** ~~will~~ **well as the execution of other capital projects such as the HREE Facility, all** require the commitment of substantial resources and capital expenditures ~~. We expect to achieve anticipated production run rates for separated REO by the end of 2023~~ . Our estimated expenses may increase ~~as consultants~~ **for a variety of factors** , **including** ~~personnel and equipment associated with our efforts are added, and~~ as a result of inflationary pressures in the ~~United States~~ **U. S** . The progress ~~of Stage II~~ , the amounts and timing of expenditures and the success of ~~this~~ **these** ~~project~~ **projects** will depend in part on the following: (a) the **ability** ~~successful completion~~ of the Stage II facilities **to separate REO as designed** and **engineered** ~~the operational resumption of a portion of~~

~~the existing process, plant and equipment, and the further enhancement and development of such existing process, plant and equipment~~ ; (b) ~~the~~ **our** ability ~~of~~ **to timely produce metal at** the ~~new equipment~~ **metal processing plant** and **related** ~~Stage II~~ facilities ~~to separate REO as designed and engineered~~ **in Vietnam under our tolling agreement with VREX Holdco (the " Tolling Agreement ")** ; (c) our ability to timely procure new equipment and materials, certain of which may involve long lead-times, or to repair existing equipment; (d) the ~~failure~~ **ability** of service providers or vendors to meet contractually- negotiated delivery or completion deadlines or meet performance specifications or guarantees; (e) maintaining, and procuring, as required, applicable federal, state and local permits; (f) the incorporation of project change orders, due to engineering, process, health and safety, or other considerations; (g) negotiating contracts for equipment, earthwork, construction, equipment installation, labor and completing infrastructure and construction work following commissioning; (h) impact of planned and unplanned shut-downs and delays in our production; (i) impact of stoppages or delays on construction projects; (j) disputes with contractors or other third parties; (k) negotiating sales and offtake contracts for our planned production; (l) the execution of any joint venture agreements or similar arrangements with strategic partners; **and** (m ~~) the impact of COVID- 19 or similar pandemics on our business, our strategic partners' or suppliers' businesses, logistics or the global economy; and (n~~) other factors, many of which are beyond our control. Most of these activities require significant lead times and must be advanced concurrently. Unanticipated costs or delays ~~associated with our Stage II project~~ could have a material adverse effect on our financial condition or results of operations and could require us to seek additional capital, which may not be available on commercially acceptable terms or at all. Our only rare earth mining and processing facility at this time is Mountain Pass. Our continued growth is based on ~~successfully completing and commissioning the Stage II project and~~ reaching anticipated production rates for the separation of REE in accordance with our expected timeframe. The deterioration or destruction of any part of Mountain Pass, or a failure of any necessary equipment to operate as designed, may significantly hinder our ability to reach or maintain anticipated production rates within the expected **timeframe** ~~time frame~~ or at all. If we are unsuccessful in reaching and maintaining expected production rates for REO at Mountain Pass, including by failing to reach anticipated throughput, recoveries, uptimes, yields, product quality, or any combination thereof, within expected ~~time frames~~ **timeframes** or at all, we may not be able to reach our full revenue potential ~~. In the event that the Stage II project is not completed, the Company may not be able to produce alloy flake and magnets in Stage III and comply with the terms of our~~ - **or achieve our** ~~agreement with GM. The production of alloy flake and magnets is a capital- intensive business, and the completion of the Fort Worth Facility will require the commitment of substantial resources; unanticipated~~ -- **anticipated** ~~costs~~ - **cost structure** ~~or delays associated with this project could have a material adverse effect on our financial condition or results of operations~~ . In February 2022, we commenced construction of our initial rare earth metal, alloy and magnet manufacturing facility in Fort Worth, Texas, in support of our Stage III initiatives. The **building portion of the** Fort Worth Facility ~~will~~ **was completed in 2023. However, the Fort Worth Facility** ~~require~~ **requires** ~~a~~ substantial capital ~~commitment to complete~~ **for equipment purchases, installation, and commissioning,** and there may be unanticipated costs or delays associated with ~~the~~ **these activities** ~~construction of our Fort Worth Facility~~ . In addition, our ability to reach our full revenue potential will be dependent on our ability to ~~complete~~ **finish** the ~~construction~~ **buildout** of our Fort Worth Facility and commence the production of ~~alloy flake and finished magnets~~ - **magnet materials** . Our proposed timeline for producing ~~alloy flake and magnets~~ - **magnet materials** is based on certain estimates and assumptions we have made about our business over the next few years, including **reaching anticipated production rates for** the **separation** ~~successful completion and commissioning~~ of **REE** ~~our Stage II project~~ and the ability to obtain ~~the~~ equipment on a timely basis from third party vendors. If any of these estimates or assumptions prove to be wrong ~~or we are unable to complete and commission our Stage II project~~ , it may significantly hinder our ability to complete the Fort Worth Facility within the expected time frame or at all. If we are unsuccessful in being able to ~~construct and~~ commence production at our Fort Worth Facility, within the expected time frame or at all, we will not be able to take advantage of our downstream value creation opportunity and thus we may not be able to reach our full revenue potential. There is a risk that we may infringe, or may be accused of infringing, the proprietary rights of third parties under patents and pending patent applications belonging to third parties that may exist in the ~~United States~~ **U. S.** and elsewhere in the world that relate to our rare earth products and processes, including our planned future production of ~~alloy flake and magnets~~ - **magnet materials** in Stage III. Because the patent application process can take several years to complete, there may be currently pending applications that may later result in issued patents that cover our products and processes. In addition, our products and processes may infringe existing patents. Defending ourselves against third- party claims ~~, including litigation in particular,~~ would be costly and time consuming and would divert management' s attention from our business, which could lead to delays in our Stage ~~II project or Stage~~ III downstream expansion. If third parties are successful in their claims, we might have to pay substantial damages or take other actions that are adverse to our business. As a result of intellectual property infringement claims, or to avoid potential claims, we might: • be prohibited from, or delayed in, selling rare earth products, including ~~alloy flake and magnets~~ - **magnet materials** , or licensing some of our products or using some of our processes unless the patent holder licenses the patent to us, which it is not required to do; • be required to pay substantial royalties or grant a cross license to our patents to another patent holder; or • be required to redesign a product or process so it does not infringe a third party' s patent, which may not be possible or could require substantial funds and time. In addition, we could be subject to claims that our employees, or we, have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of third parties. If we are unable to resolve claims that may be brought against us by third parties related to their intellectual property rights on terms acceptable to us, we may be precluded from offering some of our products or using some of our processes. Much of the technology used in the markets in which we compete is protected by patents and trade secrets, and our commercial success will depend in significant part on our ability to obtain and maintain patent and trade secret protection for our products and methods. To compete in these markets, we rely on a combination of trade secret protection, nondisclosure and licensing agreements, patents and trademarks to establish and protect our proprietary intellectual property rights, including our proprietary rare earth production processes that are not patented. Our intellectual property rights may be challenged or infringed upon by third parties **,** or we may be unable to maintain, renew or enter into new license agreements with third- party owners of intellectual property on reasonable terms. In addition, our intellectual property may be subject to infringement or other unauthorized use outside of the ~~United States~~ **U. S** . In such case, our ability to protect our intellectual property rights by legal recourse or otherwise may be limited, particularly in countries where laws or enforcement practices are undeveloped or do not recognize or protect intellectual property rights to the same extent as the ~~United States~~ **U. S** . Unauthorized use of our intellectual property rights or our inability to preserve existing intellectual property rights could adversely impact our competitive position and results of operations. The loss of our patents could reduce the value of the related products. In addition, the cost to litigate infringements of our patents, or the cost to defend ourselves against patent infringement actions by others, could be substantial and, if incurred, could materially affect our business and financial condition. Proprietary trade secrets and unpatented know- how are also very important to our business. We rely on trade secrets to protect certain aspects of our technology, especially where we do not believe that patent protection is appropriate or obtainable. However, trade secrets are difficult to protect. Our employees, consultants, contractors, outside scientific collaborators and other advisors may unintentionally or willfully disclose our confidential information to competitors, and confidentiality agreements may not provide an adequate remedy in the event of unauthorized disclosure of confidential or proprietary information. It is expensive and time consuming, with no certain outcome, to pursue a claim that a third party illegally obtained and is using our trade secrets. Moreover, our competitors may independently develop equivalent knowledge, methods and know- how. Failure to obtain or maintain trade secret protection could adversely affect our competitive business position. We may not be able to obtain additional patents and the legal protection afforded by any additional patents may not adequately protect our rights or permit us to gain or keep any competitive advantage. Our ability to obtain additional patents is uncertain and the legal protection afforded by these patents is limited and may not adequately protect our rights or permit us to gain or keep any competitive advantage. In addition, the specific content required of patents and patent applications that are necessary to support and interpret patent claims is highly uncertain due to the complex nature of the relevant legal, scientific and factual issues. Changes in either patent laws or interpretations of patent laws in the ~~United States~~ **U. S.** or elsewhere may diminish the value of our intellectual property or narrow the scope of our patent protection. Even if patents are issued regarding our products and processes, our competitors may challenge the validity of those patents. Patents also will not protect our products and processes if competitors devise ways of making products without infringing our patents ~~. If we are unable to perform the obligations under our long- term supply agreement with GM, this will have a material adverse effect on our financial position and results of operations~~ . We entered into a binding long- term supply agreement with GM. Our ability to fulfil the obligations under our long- term agreement with GM to supply them with ~~rare earth alloy flake and finished magnets~~ **magnet materials** is subject to a number of risks and contingencies. We are embarking on building the first scaled rare earth magnet manufacturing facility in the ~~United States~~ **U. S.** in several decades. While we will be relying on a number of experienced engineers and other third parties in the design, engineering and construction of the Fort Worth Facility, we will be making a number of judgments and assumptions on process design, equipment selection and design, and plant operations, that may or may not prove to be correct. Design, engineering or construction delays may impair our ability to perform under our long- term supply agreement with GM. In addition, we will need to procure ~~all of~~ the necessary equipment and materials needed to produce ~~alloy flake and~~ magnets **and their precursor materials** , some of which may be difficult to obtain. There can be no assurance that such equipment and materials will be procured on time or not be delayed due to circumstances beyond our control. Further, we will need to hire ~~and recruit~~ a sufficient number of engineers, operators and other professionals to successfully design and operate the Fort Worth Facility. It may be difficult for us to hire employees with the experience, education and skills needed to produce ~~alloy flake and magnets~~ **magnet materials** , and we may need to hire employees from other countries if we cannot recruit employees in the ~~United States~~ **U. S** . We will also face competition for these employees. There can be no assurance that ~~even if we~~ **, following the** ~~complete~~ **completion of** construction of the Fort Worth Facility, **we will** obtain the equipment and materials needed ~~,~~ and hire the necessary employees **in order to** ~~, that we will~~ successfully produce ~~alloy flake and magnets~~ **magnet materials** at the volumes and quality necessary to meet the requirements under our long- term supply agreement with GM. In the event that we are not able to mitigate these risks and fail to comply with the terms of the agreement with GM, this ~~will~~ **could** have a material adverse effect on our financial position and results of operations. **In 2023** ~~We may not be able to convert current commercial discussions with customers for the sale of REO products into contracts~~ , **we** ~~which may have a material adverse effect on our financial position and results of operations. We are actively working to complete~~ **completed construction and the initial commissioning of** our Stage II project, which ~~includes~~ **included** installing a concentrate drying and roasting circuit, upgrading and restarting the product leaching circuit, recommissioning separation and extraction circuits, improving materials handling and brine management capability, and constructing new product finishing circuits to re- establish the full capability to produce separated rare earth products at Mountain Pass. Upon reaching anticipated production rates for REO and other planned downstream products at Mountain Pass, we expect to produce approximately 20, 000 MTs of separated REO per year, which includes approximately 6, 075 MTs of NdPr oxide per year, excluding cerium concentrate. Prior to reaching expected production rates for REO and other planned downstream products at Mountain Pass, we intend to enter into short- and long- term sales contracts with new customers. However, there can be no assurance that these customers will enter into sales contracts for REO. The failure to enter into such contracts may have a material adverse effect on our financial position and results of operations. ~~We may not successfully establish or maintain collaborative, joint venture and licensing arrangements, which could adversely affect our ability to vertically integrate into further downstream processing of our REO.~~ A key element of our long- term business strategy is to vertically integrate into further downstream processing of our REO into rare earth metal, alloys, and finished magnets. To implement this vertical integration strategy successfully, we may need to license certain intellectual property related to these downstream processes and / or develop the ability, or collaborate with, purchase, or form a joint venture with existing participants in the metal, alloy, and magnet production supply chain. In addition, other licenses that may be necessary for some of these downstream processing steps have not yet been obtained. Any failure to establish or maintain collaborative, joint venture or licensing arrangements for the production of downstream products on favorable terms could adversely affect our business prospects, financial condition or ability to develop and commercialize downstream rare earth products. ~~The COVID- 19 pandemic, or other outbreaks~~ **Outbreaks of infectious diseases** , epidemics or pandemics ~~,~~ can significantly impact the national and global economy and commodity and financial markets. ~~The full extent and impact~~ **Impacts may** ~~of the COVID- 19 pandemic is unknown and to date has included~~ - **include** , among other things, extreme volatility in financial markets, a slowdown in economic activity, extreme volatility in commodity prices and a global recession. **Outbreaks, epidemics or pandemics may** ~~The response to COVID- 19 has led~~ **lead** to significant restrictions on travel, temporary business closures, quarantines, and a general reduction in consumer activity and sentiment ~~,~~ globally **and may impact** ~~. The outbreak has affected~~ our business and operations ~~and may continue to do so,~~ by **,** among others, increasing the cost of operations ~~and~~ **, causing shipping delays,** reducing employee productivity, limiting travel of our personnel, adversely affecting the health and welfare of our personnel, or preventing or delaying important third- party service providers from performing normal and contracted activities crucial to the operation of our business. ~~In addition, since the onset of the COVID- 19 pandemic in the first quarter of 2020, we have periodically experienced shipping delays due to port slowdowns and container shortages from congestion at port facilities and trucking shortages, which has resulted in supply chain disruptions. Congestion at U. S. and international ports could affect the capacity at ports to receive deliveries of products or the loading of shipments onto vessels. The outbreak has resulted in significant governmental measures being implemented to control the spread of the virus, including, among others, restrictions on manufacturing and the movement of employees in many regions of China, the U. S. and other countries. These disruptions could continue to impact the rare earth market, particularly the supply chain in China and the U. S., which in turn could impact our business or business prospects, including our ability to benefit from our Offtake Agreement with Shenghe.~~ Decisions beyond our control, such as canceled events, restricted travel, barriers to entry, temporary closures or limited availability of county, state or federal government agencies, or other factors may affect our ability to perform mining operations, corporate activities, and other actions that would normally be accomplished without such limitations. The extent to which ~~the COVID- 19~~ **an outbreak, epidemic or** pandemic ~~and other variants~~ will impact our operations, our business and the economy is highly uncertain and will also depend on future developments that cannot be predicted, including new information which may emerge concerning the severity of the disease, the duration and spread of the outbreak, including the spread of ~~other~~ variants, the scope of travel restrictions imposed, mandatory or voluntary business closures, the impact on businesses and financial and capital markets, and the extent and effectiveness of actions taken throughout the world to contain the virus or treat its impact, including the effectiveness and availability of vaccines. We cannot predict the impact of ~~the COVID- 19~~ **an outbreak, epidemic or** pandemic ~~, or other outbreaks, epidemics or pandemics~~ , but it may materially and adversely affect our business, financial condition and results of operations. A power outage or shortage at Mountain Pass could temporarily delay mining and processing operations and increase costs, which may materially adversely impact our business. Our facilities at Mountain Pass are currently powered by a natural gas- powered combined heat and power (" CHP ") plant **that** ~~, which was installed at Mountain Pass to produce~~ **produces** electricity and steam and ~~to minimize or eliminate~~ **eliminates** reliance on the regional electric power grid. ~~Our CHP plant has the capability to provide all the electricity and steam needed for the industrial operations of Stage I. In addition, operation~~ **Operation** of the CHP plant is necessary to support the entire energy demand of Stage II. While we believe that the CHP plant will provide sufficient electricity and steam to operate our facilities at Mountain Pass, there can be no assurance that there will not be intermittent interruptions in the ability to produce electricity and steam. Instability in electrical supply could cause sporadic outages or brownouts. Any such outages or brownouts could have a negative impact on our production. If the CHP plant is unable to provide sufficient energy for the operation of Mountain Pass or if additional growth projects require energy needs in excess of CHP capacity, we may be required to obtain electricity from a single utility company in Southern California. We could incur higher operating costs, remain subject to the effects of occasional grid power outages and brownouts, and could experience temporary interruptions of processing operations. As a result, our revenue could be adversely impacted and our relationships with our customers could suffer, adversely impacting our ability to generate future revenue and otherwise perform our contractual obligations. Increasing costs or limited access to raw materials may adversely affect our profitability. We ~~will~~ use significant amounts of chemical reagents to process REE. Though ~~Mountain Pass includes a chlor~~ **we may enter into long** - **term** ~~alkali facility, we intend to~~ purchase **agreements,** chemical reagents **sourced** from third parties **may** ~~on the open market for some period of time. Prior to potentially commencing production of chlor- alkali chemicals on- site, during any production disruption or for chemicals we cannot produce, we will need to purchase chemical reagents from third parties in the open market. We, therefore, would~~ be subject to significant volatility in ~~the~~ cost and availability ~~of these chemicals and to restrictions on chemical use imposed by environmental regulations or law~~ . In addition, third parties may not honor their agreements with us **and / or declare force majeure,** and as a result, we may need to obtain such chemical reagents from other parties at higher costs and expense and there may be a delay in obtaining such chemical reagents. Further, supply chains reliant on sea vessels, train, and / or truck may subject us to transportation delays in obtaining these chemical reagents. We also may not be able to store such chemical reagents without incurring substantial costs. We may not be able to pass increased costs for these chemical reagents through to our customers in the form of price increases **. The Mountain Pass site includes a currently idle chlor- alkali facility that may be restarted in the future to produce hydrochloric acid, sodium hydroxide, and sodium hypochlorite** . A significant increase in the price or decrease in the availability of these chemicals before we potentially restart our production of them on- site, or restrictions imposed by environmental regulations or law on chemical use, could materially increase our operating costs and adversely affect our profit margins and production volumes. There can be no assurance that we will be able to purchase the necessary chemical reagents from third parties on terms that are acceptable to us. The failure to obtain chemical reagents as needed will have an adverse effect on our financial condition and results of operations. Fluctuations in transportation costs or disruptions in transportation services or damage or loss during transport could decrease our competitiveness or impair our ability to supply **REE** ~~rare earth minerals~~ or **magnet** products to our customers, which could adversely affect our results of operations. We currently transport our rare earth concentrate **and NdPr oxide** ~~product~~ **products** via ocean freight. At times during 2021 and 2022, there was a backlog of container ships off the coast of Southern California that delayed shipments in and out of the ports of Los Angeles and Long Beach, the ports that we use to ship our rare earth concentrate product. While we managed to mitigate these intermittent delays in shipping rare earth concentrate product through these ports, our ability to continue to maintain stable shipments may be impacted if port delays due to congestion return or worsen. In addition, we will in the future need to transport our products to our future customers **and our tollers** wherever they may be located. Finding affordable and dependable transportation is necessary for us to be able to supply customers around the world. Labor disputes, embargoes, government restrictions, work stoppages, pandemics, derailments, damage or loss events, adverse weather conditions, other environmental events, seasonal changes in supply and demand for transportation, changes to rail or ocean freight systems, domestic or international laws or regulations, permits or other approvals, or other events and activities beyond our control could interrupt or limit available transport services, which could result in customer dissatisfaction and loss of sales and could materially adversely affect our results of operations. Such events and conditions, including flooding and other natural disasters, could also impact the facilities of our customers which could have a material adverse effect on our ability to deliver our product to our customers. We will need to process REE to exacting specifications in order to provide future customers with a consistently high- quality product. An inability to process REO that meet individual customer specifications may have a material adverse effect on our financial condition or results of operations. ~~Upon~~ **With** the **commencement** ~~completion and commissioning~~ of ~~our~~ Stage II ~~project~~ **operations** , we expect to be able to process REE to meet customer needs and specifications and to provide customers with a consistently high- quality product while meeting ever- stricter purity requirements. ~~An inability~~ **We have limited experience operating our Stage II assets. In the event that certain equipment fails to consistently perform as designed or we are unable to maintain consistent uptime, we may struggle** to meet individual customer specifications **, which** may have a material adverse effect on our financial condition or results of operations. In addition, customer needs and specifications may change with time. Any delay or failure in developing processes to meet changing customer needs and specifications may have a material adverse effect on our financial condition or results of operations. Diminished access to water may adversely affect our operations. Processing of REO requires significant amounts of water. The technology we currently use to beneficiate REO is a sustainable process with dry tailings that limits the need for fresh water usage. Although we believe our current process is sustainable, any disruption in the process could prompt the need for significant access to fresh water. Additionally, **with the commencement of** ~~once we complete and commission our~~ Stage II ~~project~~ **operations** , we ~~will~~ require an even greater amount of water for our CHP plant, separation and extraction processes, and product finishing operations, including significant demand for highly- pure water. We maintain and operate one water supply well field for potable and process water and own land and wells in another water supply well field that we may be able to operate in the future. **In addition, significant volumes of water are recycled from process brine to reduce ground water usage.** Any disruption to our current process, including our water treatment plant used to make highly- pure water ~~;~~ **,** decreases in available water supply ~~;~~ **,** or inability to recycle sufficient volumes of distillate may have a material adverse effect on our operations and our financial condition or results of operations **. We face regulatory and business risks associated with our investment in VREX Holdco. We own a minority interest in VREX Holdco, a Singapore company. An entity affiliated with Shenghe is the majority shareholder of VREX Holdco. VREX Holdco owns Vietnam Rare Earth Company Limited (" VREX "), which owns and operates a metal processing plant and related facilities in Vietnam. As a minority shareholder of VREX Holdco, our ability to control the management, record- keeping, operations and decision-making of VREX Holdco is limited. VREX Holdco' s operations are subject to the significant business, economic, regulatory and competitive uncertainties and contingencies frequently encountered by new businesses and other risks, many of which are beyond VREX Holdco' s or our control. Because VREX Holdco has limited operating history, it may be more difficult for them to prepare for and respond to these types of risks than for a company with an established business and operating cash flow. VREX Holdco has operations outside the United States, which exposes us to complex foreign and U. S. regulations inherent in doing business in Vietnam. We are subject to regulations imposed by the Foreign Corrupt Practices Act (the " FCPA "), and other anti- corruption laws that generally prohibit U. S. companies and their intermediaries from offering, promising, authorizing or making improper payments to foreign government officials for the purpose of obtaining or retaining business. Violations of the FCPA and other anti- corruption laws may result in severe criminal and civil sanctions as well as other penalties. The SEC and U. S. Department of Justice in recent years have increased their enforcement activities with respect to the FCPA. Internal control policies and procedures and the compliance program that VREX Holdco has implemented to deter prohibited practices may not be effective in prohibiting its employees, contractors or agents from violating or circumventing our policies and the law. If VREX Holdco' s or our employees or agents fail to comply with applicable laws or company policies governing VREX Holdco' s international operations, we and our subsidiaries may face investigations, prosecutions and other legal and regulatory proceedings and actions which could result in civil penalties, administrative remedies and criminal sanctions. Any determination that we have violated the FCPA could have a material adverse effect on our financial condition. Compliance with international and U. S. laws and regulations that apply to VREX Holdco' s international operations increases the cost of doing business in foreign jurisdictions. VREX Holdco' s employees will also be subject to various reporting and anti- money laundering regulations. Any violation of anti- money laundering laws or regulations by VREX Holdco' s employees could have a negative effect on us. In addition, VREX Holdco has limited operating history with VREX. We entered into the Tolling Agreement with VREX Holdco, whereby we deliver NdPr oxide to VREX Holdco, which VREX Holdco then causes VREX to process into NdPr metal for delivery to our customers globally. We will be providing VREX with a large amount of our inventory of NdPr oxide to process into NdPr metal. We will be subject to**

risks associated with VREX Holdco and VREX appropriately storing and handling a significant volume and value of our inventory. In the event that VREX Holdco or VREX is unable to store or handle the NdPr oxide or process the NdPr oxide into NdPr metal based on the specifications provided by us, this may have a material adverse effect on our operations and financial condition . Uncertainty in our estimates of REO reserves could result in lower- than- expected revenues and higher- than- expected costs. We base our REO reserve estimates on engineering, economic and geological data assembled and analyzed by outside firms, which are reviewed by our engineers and geologists. Ore reserve estimates, however, are necessarily imprecise and depend to some extent on professional interpretation, including statistical inferences drawn from available drilling data, which may prove unreliable. There are numerous uncertainties inherent in estimating quantities and qualities of REO reserves and costs to mine recoverable reserves, including many factors beyond our control. Estimates of economically recoverable REO reserves necessarily depend upon a number of variable factors and assumptions, all of which may vary considerably from actual results, such as: • geological, mining and processing conditions and / or effects from prior mining that may not be fully identified by available data or that may differ from experience; • changes to the strategic approach to mining and processing the deposit depending upon market demand, corporate strategy and other prevailing economic conditions; • assumptions concerning future prices of rare earth products, foreign exchange rates, process recovery rates, transportation costs, operating costs, capital costs and reclamation costs; and • assumptions concerning future effects of regulation, including the issuance of required permits and taxes by governmental agencies and foreign government policies relating to the import or export of rare earth products. Uncertainty in our estimates related to our REO reserves could result in lower- than- expected revenues and higher- than- expected costs or a shortened estimated life for the mine at ~~the~~ Mountain Pass ~~facility~~ . Fluctuations in factors out of our control such as changes in future product pricing, foreign government policies on the import or export of rare earths and foreign exchange rates can have a significant impact on the estimates of reserves and can result in significant changes in the quantum of our reserves period- to- period. Period- to- period conversion of probable REO reserves to proven ore reserves may result in increases or decreases to the total reported amount of ore reserves. Conversion rates are affected by a number of factors, including geological variability, applicable mining methods and changes in safe mining practices, economic considerations and new regulatory requirements. Our profitability could be adversely affected if we fail to maintain satisfactory labor relations; work stoppages or similar difficulties could significantly disrupt our operations, reduce our revenues and materially adversely affect our results of operations. Production at Mountain Pass is dependent upon the efforts of our employees. Although none of our employees are currently subject to any collective bargaining arrangements, our employees could, in the future, choose to be represented as a collective unit, which may result in labor disputes, work stoppages or other disruptions in our production efforts that could adversely affect us. A work stoppage by any of the third parties providing services in connection with ~~the~~ construction projects at Mountain Pass and our magnet facility being developed in Fort Worth, Texas **,** could significantly delay **completion of such** ~~our Stage II and Stage III~~ projects ~~, respectively,~~ and disrupt our operations, reduce our revenues and materially adversely affect our results of operations. A shortage of skilled technicians and engineers may further increase operating costs, which may materially adversely affect our results of operations. Efficient production of rare earth products ~~, alloy flake~~ and ~~magnets~~ - **magnet materials** using modern techniques and equipment requires skilled technicians and engineers. In addition, our optimization and downstream efforts will significantly increase the number of skilled operators, maintenance technicians, engineers and other personnel required to successfully operate our business. In the event that we are unable to hire, train and retain the necessary number of skilled technicians, engineers and other personnel there could be an adverse impact on our labor costs and our ability to reach anticipated production levels in a timely manner, which could have a material adverse effect on our results of operations. We depend on key personnel for the success of our business. We depend on the services of our senior management team and other key personnel. The loss of the services of any member of senior management or a key employee could have an adverse effect on our business. We may not be able to locate, attract or employ on acceptable terms qualified replacements for senior management or other key employees if their services are no longer available. Because of the dangers involved in the mining of minerals and the manufacture of mineral products, there is a risk that we may incur liability or damages as we conduct our business. The mining of minerals and the manufacture of mineral products ~~involves~~ - **involve** numerous hazards ~~,~~ **that could cause bodily harm or environmental damage and subject us to liability. These hazards** ~~including~~ **include** : (i) unusual and unexpected rock formations affecting ore or wall rock characteristics; (ii) ground or slope failures ~~(including~~ **of the** open **-** ~~pits~~ - **pit mine** , ~~waste rock~~ **overburden stockpiles,** and **/ or** tailings disposal areas ~~)~~ ; (iii) environmental hazards; (iv) industrial accidents **and / or processing upsets** ; (v) ~~bodily injury or harm; (vi) processing problems; (vii)~~ periodic interruptions due to inclement or hazardous weather conditions or other acts of God; and (~~viii~~ **vi**) mechanical equipment failure and facility performance problems. Although we maintain insurance to address certain risks involved in our business, such as coverage for property damage, business interruption, natural disasters, terrorism and workers compensation, there can be no assurance that our coverage will be adequate for liabilities incurred or that insurance will continue to be available to us on economically reasonable terms. Additionally, we cannot be certain that all claims we may make under our insurance policies will be deemed to be within the scope of, or fully covered by, our policies. We might also become subject to liability for environmental issues, damage or other hazards that may be uninsurable or for which we may elect not to insure because of premium costs or commercial impracticality. These policies contain limits of coverage and exclusions that are typical of such policies generally. The payment of such premiums, or the assumption of such liabilities, may have a material adverse effect on our financial position and results of operations. Our facilities or operations could be adversely affected by events outside of our control, such as natural disasters, wars or health epidemics or pandemics. We may be impacted by natural disasters, wars, health epidemics or pandemics or other events outside of our control. For example, Mountain Pass is located in San Bernardino County, California **,** near active faults, ~~which~~ **that** could lead to nearby earthquakes. If major disasters such as earthquakes, **wildfires** ~~wild fires~~ , health epidemics or pandemics, floods or other events occur, or our information system or communications network breaks down or operates improperly, our ability to continue operations at Mountain Pass may be seriously damaged, or we may have to stop or delay production and shipment of our products. We may incur expenses or delays relating to such events outside of our control, which could have a material adverse impact on our business, operating results and financial condition. We are dependent upon information technology systems, which are subject to cyber threats, disruption, damage and failure. We depend upon information technology systems in the conduct of our operations. Our information technology systems are subject to disruption, damage or failure from a variety of sources, including, without limitation, computer viruses, security breaches, cyber- attacks, natural disasters and defects in design. Cybersecurity incidents, in particular, are evolving and include, but are not limited to, malicious software, attempts to gain unauthorized access to data and other electronic security breaches that could lead to disruptions in systems, unauthorized release of confidential or otherwise protected information or the corruption of data. Various measures have been implemented to manage our risks related to information technology systems and network disruptions. However, given the unpredictability of the timing, nature and scope of information technology disruptions, we could potentially be subject to downtimes, operational delays, the compromising of confidential or otherwise protected information, destruction or corruption of data, security breaches, other manipulation or improper use of our systems and networks or financial losses from remedial actions, any of which could have a material adverse effect on our business, operating results and financial condition. Risks Related to Environmental Regulation Our operations are subject to extensive and costly environmental requirements; current and future laws, regulations and permits impose significant costs, liabilities or obligations or could limit or prevent our ability to continue our current operations or to undertake new operations. We are subject to numerous and detailed federal, state and local environmental laws, certifications, regulations, permits, and other legal requirements applicable to the mining and mineral processing industry, including, without limitation, those pertaining to employee health and safety, air emissions, water usage, wastewater and stormwater discharges, air quality standards, GHG emissions, waste management, plant and wildlife protection, handling and disposal of hazardous and radioactive substances and waste, remediation of soil and groundwater contamination, land use, reclamation and restoration of properties, the discharge of materials into the environment, procurement of certain materials used in our operations, and groundwater quality and availability. These requirements may result in significant costs, liabilities and obligations, impose conditions that are difficult to achieve or otherwise delay, limit or prohibit current or planned operations and future growth. Consequently, the modernization and expansion of ~~the~~ Mountain Pass ~~facility~~ and the development of our Fort Worth Facility may be delayed, limited or prevented and current operations may be curtailed. Failure to comply with these laws, regulations and permits, including as they evolve, may result in the assessment of administrative, civil and criminal penalties, the issuance of injunctions to limit or cease operations, fines, or the suspension or revocation of permits and other sanctions. Pursuant to such requirements, we may also be subject to third- party claims, including for damages to property or injury to persons arising from our operations. Moreover, environmental legislation and regulation are evolving in a manner that may impose stricter standards and enforcement, increased fines and penalties for non- compliance, cessation of operations, more stringent environmental assessments, and a heightened degree of responsibility for companies and their officers, directors and employees. In addition, mine safety has been the subject of increasing scrutiny resulting in federal and state legislatures and other regulatory authorities imposing more stringent regulatory requirements on mining operations. Any changes in environmental laws, regulations or permits (or the interpretation or enforcement thereof) or any sanctions, damages, costs, obligations or liabilities in respect of these matters could have a material adverse effect on our business and / or the results of our operations and financial condition. Our operations use hazardous materials and generate hazardous waste and radioactive byproducts. While we maintain procedures for and conduct training on the handling and disposing of chemicals or other substances by our personnel, risks, including bodily injury and property damage, persist. Moreover, mining and processing of rare earths has occurred at Mountain Pass since 1952, and contamination is known to exist around the facility. We may be subject to claims under environmental laws, for toxic torts, natural resource damages and other liabilities, as well as for the investigation and remediation of soil, surface water, groundwater and other environmental media. Mountain Pass is subject to an order issued by the Lahontan Regional Water Quality Control Board, primarily related to contamination emanating from certain on- site impoundments active during prior periods of operation, pursuant to which we and previous owners have conducted various investigatory and remedial actions. These remedial activities include groundwater monitoring, extraction and treatment. We are still in the process of delineating the extent of groundwater contamination at and around the facility and cannot assure you that we will not incur material costs relating to the remediation of such contamination. Also, prior to our acquisition of Mountain Pass, leaks in a wastewater pipeline from Mountain Pass to offsite evaporation ponds on the Ivanpah dry lake bed caused contamination. Pursuant to a settlement agreement, that contamination has been remediated by Chevron Mining Inc., which retained ownership of the ponds and the pipeline and provided a full indemnity to the previous buyer of Mountain Pass for liabilities related to the Ivanpah wastewater pipeline. In ~~2022~~ **2023** , the remaining portion of the pipeline was removed from ~~the~~ Mountain Pass ~~facility~~ and safely disposed. In addition to claims arising out of our current or former properties, such claims may arise in connection with contaminated third- party sites at which we have disposed of waste. Under the federal Comprehensive Environmental Response, Compensation and Liability Act, and analogous state statutes, our liability for claims for contamination at our current or former properties, and at third- party sites at which we disposed of waste, may be joint and several, so that we may be held responsible for more than our share of any contamination, or even for the entire share. These and similar unforeseen impacts that our operations may have on the environment, as well as human exposure to hazardous or radioactive materials or wastes, could have a material adverse effect on our business, reputation, results of operations and financial condition. ~~We must~~ **In connection with our current and future operations and growth plans, we may need to amend or** obtain ~~a number of~~ additional ~~or amended~~ permits that impose strict requirements relating to various environmental and health and safety matters ~~in connection with our current and future operations, including the modernization and expansion of Mountain Pass~~ . To obtain certain permits, we may be required to conduct environmental studies and present data to governmental authorities pertaining to the potential impact of our current and future operations upon the environment and take steps to avoid or mitigate those impacts, particularly impacts to desert flora and fauna. Furthermore, the permitting processes and development of supporting materials, including any environmental impact statements, may be costly and time-consuming. These permit processes and requirements, and the interpretation and enforcement thereof, change frequently, and any such future changes could materially adversely affect our mining operations and results of operations. In some cases, the public (including environmental interest groups) has the right to comment upon, and submit objections to, permit applications and environmental impact statements prepared in connection therewith, and otherwise participate in the permitting process, including challenging the issuance of permits. Accordingly, permits required for our operations, including the modernization and expansion of Mountain Pass, may not be issued, maintained, amended or renewed in a timely fashion or at all, or may be issued or renewed upon conditions that restrict our ability to conduct operations. Any such failure to obtain, maintain, amend or renew permits, or other permitting delays, including in connection with any environmental impact analyses, could have a material adverse effect on our results of operations and financial condition or otherwise impose significant restrictions on our ability to conduct our business. Legislation and increased regulation regarding climate change could impose significant costs on us and our suppliers, including costs related to increased energy requirements, capital equipment, environmental monitoring, permitting, reporting and other costs to comply with such regulations. Our operations emit greenhouse gases **,** and with the restart of our CHP plant in 2022, our emissions exceeded inclusion thresholds of the California cap- and- trade program, resulting in the Company being re- entered into the program. As such, allowances will be directly allocated to us annually, with fluctuations based on energy usage and regulatory provisions. **We expect that our emissions will continue to increase as our separations production ramps, which would require us to purchase** ~~Additional~~ **additional** allowances ~~will need to be purchased~~ , with the price of allowances subject to market volatility. Any adopted future climate change regulations could negatively impact our ability to compete with companies situated in areas and countries not subject to such limitations. Given the political significance, regulatory or compliance obligations and uncertainty around the impact of climate change and how it should be addressed, we cannot predict how legislation and regulation will affect our financial condition, operating performance and ability to compete. Furthermore, even without such regulation, increased awareness and any adverse publicity in the global marketplace, including the investing community, about potential impacts on climate change by us or other companies in our industry could harm our reputation or our access to capital. The potential physical impacts of climate change on our operations are highly uncertain and would be particular to the geographic circumstances in areas in which we operate. These impacts may adversely impact the cost, production and financial performance of our operations. Our inability to acquire, maintain or renew financial assurances related to the reclamation and restoration of mining property, or inaccuracies in the assumption underlying our reclamation plan and mine closure obligations, could have a material adverse effect on our business, results of operations and financial condition. Under the California Surface Mining and Reclamation Act **,** we are generally obligated to restore property after it has been mined in accordance with regulatory standards and our approved mining plan. Additionally, we are required under various federal, state and local laws to maintain financial assurances, such as surety bonds, to secure such obligations. The failure to acquire, maintain or renew such assurances, as required by federal, state and local laws, could subject us to fines and penalties as well as the revocation of our mining permits. Such failure could result from a variety of factors, including: • the lack of availability, higher expense or unreasonable terms of such financial assurances; • the ability of current and future financial assurance counterparties to increase required collateral; and • the exercise by third- party financial assurance counterparties of any rights to refuse to renew the financial assurance instruments. It has become increasingly difficult for mining companies to secure new or renew existing surety bonds without posting partial or full collateral to secure the bonds. In addition, the cost to obtain surety bonds has increased while the market terms of the surety bonds generally have become less favorable. It is possible that surety bond issuers may refuse to provide or renew bonds or may demand additional collateral upon the issuance or renewal of the bonds. Our inability to acquire or failure to maintain or renew such bonds or other financial assurances could have a material adverse effect on our business, financial condition and results of operations. Federal, state and local laws and regulations establish reclamation and closure standards applicable to our surface mining and other operations as well. Estimates of our total reclamation and mine closing liabilities are based upon our reclamation plan, third- party expert reports, current applicable laws and regulations, certain permit terms, our engineering expertise related to these requirements and review by regulatory agencies. Any change in the underlying assumptions, permissions, or other variation between the estimated liabilities and actual costs could materially and adversely affect our business, results of operations and financial condition. Risks Related to Our Common Stock ~~A recent decision of the Delaware Court of Chancery in Garfield v. Boxed, Inc. may create uncertainty regarding the validity of some of our authorized and issued shares of common stock. On February 16, 2023, we filed a petition in the Delaware Court of Chancery pursuant to Section 205 (" Section 205 ") of the Delaware General Corporation Law, seeking validation of an amendment to our Amended and Restated Certificate of Incorporation (the " Charter Amendment ") undertaken at a special meeting of our stockholders held on November 13, 2020, which increased our authorized Class A common stock and preferred stock by a majority vote of the then- outstanding shares of our Class A common stock and Class F common stock, voting as a single class, and seeking validation of the shares that may be issued pursuant to the Charter Amendment. A recent decision of the Delaware Court of Chancery in Garfield v. Boxed, Inc. may create uncertainty regarding the validity of the Charter Amendment. While we believe the Court is likely to grant the Section 205 petition, the outcome is not certain. If we are not successful in the Section 205 proceeding, uncertainty relating to the Charter Amendment and shares issued pursuant thereto could continue, which may have a material adverse effect on our business.~~ Our stock price has experienced, and may in the future experience, volatility, and you could lose all or part of your investment as a result. The trading price of our common stock has historically experienced, and may continue to experience, significant volatility, which could cause you to lose all or part of your investment. Moreover, **as a result of** the **decrease in the market price of NdPr oxide in 2023, our Realized Price per REO MT decreased from $ 11, 974 for the year ended December 31, 2022, to $ 6, 854 for the year ended December 31, 2023. This negatively impacted our results of operations, which in turn has resulted in a dramatic**

decrease in the trading price of the Company' s common stock ~~market recently has experienced extreme volatility, in part as a result of strong and atypical retail investor interest in particular stocks. In many cases, this volatility often has been unrelated or disproportionate to the operating performance of particular companies~~. You may not be able to resell your shares at an attractive price due to a number of factors such as those listed in " Risks Relating to our Business and Industry " above and the following: (a) **fluctuations in demand for, and prices of, REE and magnet products; (b)** results of operations that vary from the expectations of securities analysts and investors; (~~b~~ **c**) changes in expectations as to the Company' s future financial performance, including financial estimates and investment recommendations by securities analysts and investors; (~~c~~ **d**) declines in the market prices of stocks generally and market prices of mining- related companies in particular; (~~d~~ **e**) strategic actions by the Company or its competitors; (~~e~~ **f**) announcements by the Company or its competitors of significant contracts, acquisitions, joint ventures, other strategic relationships or capital commitments; (~~f~~ **g**) any significant change in the Company' s management; (~~g~~ **h**) changes in general economic or market conditions or trends in the Company' s industry or markets; (~~h~~ **i**) changes in business or regulatory conditions, including new laws or regulations or new interpretations of existing laws or regulations applicable to the Company' s business; (~~i~~ **j**) future sales of the Company' s common stock or other securities; (~~j~~ **k**) investor perceptions of the investment opportunity associated with the Company' s common stock relative to other investment alternatives; (~~k~~ **l**) the public' s response to press releases or other public announcements by the Company or third parties, including the Company' s filings with the SEC; (~~l~~ **m**) litigation involving the Company, the Company' s industry, or both, or investigations by regulators into the Company' s operations or those of our competitors; (~~m~~ **n**) guidance, if any, that the Company provides to the public, any changes in this guidance or the Company' s failure to meet this guidance; (~~n~~ **o**) the development and sustainability of an active trading market for the Company' s stock; (~~o~~ **p**) actions by institutional or activist stockholders; (~~p~~ **q**) declines in the market price of our stock as a result of negative reports on the Company by research firms that engage in short selling; (~~q~~ **r**) changes in accounting standards, policies, guidelines, interpretations or principles; and (~~r~~ **s**) other events or factors, including those resulting from natural disasters, war, acts of terrorism, health pandemics or responses to these events. Volatility in our stock price could adversely affect our business and financing opportunities. These broad market and industry fluctuations may adversely affect the market price of our common stock, regardless of the Company' s actual operating performance. In addition, price volatility may be greater if the public float and trading volume of our common stock is low. In the past, following periods of market volatility, stockholders have instituted securities class action litigation. If the Company was involved in securities litigation, it could have a substantial cost and divert resources and the attention of executive management from the Company' s business regardless of the outcome of such litigation. Because there are no current plans to pay cash dividends on our common stock for the foreseeable future, you may not receive any return on investment unless you sell your common stock for a price greater than that which you paid for it. We intend to retain future earnings, if any, for future operations, expansion and debt repayment and there are no current plans to pay any cash dividends for the foreseeable future. The declaration, amount and payment of any future dividends on shares of our common stock will be at the sole discretion of our Board. Our Board may take into account general and economic conditions, our financial condition and results of operations, our available cash and current and anticipated cash needs, capital requirements, contractual, legal, tax, and regulatory restrictions, implications on the payment of dividends to our stockholders or by our subsidiaries to us and such other factors as our Board may deem relevant. In addition, our ability to pay dividends may be limited by covenants of any future indebtedness we incur. As a result, you may not receive any return on an investment in our common stock unless you sell our common stock for a price greater than that which you paid for it. Future sales, or the perception of future sales, by us or our stockholders in the public market could cause the market price for our common stock to decline. The sale of shares of common stock in the public market, or the perception that such sales could occur, could harm the prevailing market price of shares of common stock. These sales, or the possibility that these sales may occur, also might make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. In the future, we may also issue our securities in connection with investments or acquisitions. The amount of shares of common stock issued in connection with an investment or acquisition could constitute a material portion of our then- outstanding shares of common stock. Any issuance of additional securities in connection with investments or acquisitions may result in additional dilution to our stockholders. Anti- takeover provisions in our organizational documents could delay or prevent a change of control. Certain provisions of our Second Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws may have an anti- takeover effect and may delay, defer or prevent a merger, acquisition, tender offer, takeover attempt or other change of control transaction that a stockholder might consider in its best interest, including those attempts that might result in a premium over the market price for the shares held by our stockholders. These provisions provide for, among other things: (i) no cumulative voting with respect to the election of our Board; (ii) the division of the our Board into three classes, with only one class of directors being elected in each year; (iii) the ability of our Board to issue one or more series of preferred stock; (iv) advance notice for nominations of directors by stockholders and for stockholders to include matters to be considered at our annual meetings; (v) certain limitations on convening special stockholder meetings; (vi) limiting the ability of stockholders to act by written consent; (vii) the ability of our Board to fill a vacancy created by the expansion of the board of directors or the resignation, death, or removal of a director in certain circumstances; (viii) providing that our Board is expressly authorized to make, alter or repeal our bylaws; (ix) the removal of directors only for cause; and (x) that certain provisions may be amended only by the affirmative vote of at least 66. 7 % of the shares of common stock entitled to vote generally in the election of our directors. These anti- takeover provisions could make it more difficult for a third party to acquire us, even if the third party' s offer may be considered beneficial by many of our stockholders. As a result, our stockholders may be limited in their ability to obtain a premium for their shares. These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors of your choosing and to cause us to take other corporate actions you desire. Our Second Amended and Restated Certificate of Incorporation designates the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or stockholders. The Second Amended and Restated Certificate of Incorporation provides that, subject to limited exceptions, any (i) derivative action or proceeding brought on behalf of the Company, (ii) action asserting a claim of breach of a fiduciary duty owed by any director, officer, stockholder or employee to the Company or its stockholders, (iii) action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law or our Second Amended and Restated Certificate of Incorporation or our Amended and Restated Bylaws or (iv) action asserting a claim governed by the internal affairs doctrine shall, to the fullest extent permitted by law, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, another state or federal court located within the State of Delaware. The Second Amended and Restated Certificate of Incorporation also provides that, to the fullest extent permitted by law, the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the ~~United States~~ **U. S.** federal securities laws, including the Securities Act and the Exchange Act. Additionally, investors cannot waive our compliance with federal securities laws and the rules and regulations thereunder. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock shall be deemed to have notice of and to have consented to the provisions of our certificate of incorporation described above. This choice of forum provision may limit a stockholder' s ability to bring a claim in a judicial forum that it finds favorable for disputes with the Company or its directors, officers or other employees, which may discourage such lawsuits against the Company and its directors, officers and employees. There is uncertainty as to whether a court would enforce such an exclusive forum provision with respect to claims under the Securities Act. If a court were to find these provisions of our Second Amended and Restated Certificate of Incorporation inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could adversely affect our business and financial condition. Increased scrutiny regarding our sustainability and ESG practices could impact our reputation and our stock price. In ~~July~~ **June** ~~2022~~ **2023** , we released our ~~first~~ ESG report for fiscal year ~~2021~~ **2022** , which highlights our key achievements, metrics and ESG strategy. Our sustainability report also includes our policies and practices on a variety of ESG matters, including water management and preservation; recycling; diversity, ~~equity, and~~ inclusion **and meritocracy** ~~(" DEI ")~~ ; employee health and safety; and human capital management. In addition, our business faces increasing scrutiny related to ESG issues, including sustainable development, renewable resources, environmental stewardship, supply chain management, climate change, ~~DEI~~ **diversity, inclusion and meritocracy** , workplace conduct, human rights, philanthropy and support for local communities. Implementation of our environmental and sustainability initiatives will require financial expenditures and employee resources. The publication of our ~~sustainability~~ **ESG** report may result in increased investor, media, employee, and other stakeholder attention to our ESG initiatives, and such stakeholders may not be satisfied with our ESG practices or initiatives. Organizations that inform investors on ESG matters have developed rating systems for evaluating companies on their approach to ESG. Unfavorable ratings may lead to negative investor sentiment, which could negatively impact our stock price. Any failure, or perceived failure, to respond to ESG concerns could harm our business and reputation. In addition, certain influential institutional investors are also increasing their focus on ESG practices and are placing importance on the implications and social cost of their investments. If our ESG practices do not meet the standards set by these investors, they may choose not to invest in our common stock, or if our peer companies outperform us in their ESG initiatives, potential or current investors may elect to invest with our competitors instead. If we do not comply with investor or stockholder expectations and standards in connection with our ESG initiatives, or are perceived to have not responded appropriately to address ESG issues within our company, our brand and reputation, as well as our business, financial condition, and results of operations could be negatively impacted, and our share price could be materially and adversely affected. Risks Relating to our Convertible Notes **The conditional conversion feature of our Convertible Notes, if triggered, may adversely affect our financial condition and operating results.** We completed an offering of Convertible Notes in March 2021. In the event the conditional conversion feature of our Convertible Notes is triggered, holders of the Convertible Notes will be entitled to convert them at any time during specified periods at their option. If one or more holders elect to convert their Convertible Notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their Convertible Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Convertible Notes as a current rather than long- term liability, which would result in a material reduction of our net working capital. The conversion of some or all of our Convertible Notes may dilute the ownership interests of our stockholders. Upon conversion of the notes, we have the option to pay or deliver, as the case may be, cash, shares of our common stock, or a combination of cash and shares of our common stock. If we elect to settle our conversion obligation in shares of our common stock or a combination of cash and shares of our common stock, any sales in the public market of our common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the Convertible Notes may encourage short selling by market participants that engage in hedging or arbitrage activity, and anticipated conversion of the notes into shares of our common stock could depress the price of our common stock. Certain provisions in the indenture governing the Convertible Notes may make it more difficult or expensive for a third party to acquire us. For example, the indenture governing the Convertible Notes requires us to repurchase the notes for cash upon the occurrence of a fundamental change (as defined in the indenture governing the Convertible Notes) of us and, in certain circumstances, to increase the conversion rate for a holder that converts their Convertible Notes in connection with a make-whole fundamental change (as defined in the indenture governing the Convertible Notes). A takeover of us may trigger the requirement that we repurchase the Convertible Notes and / or increase the conversion rate, which could make it more costly for a potential acquirer to engage in such takeover. Such additional costs may have the effect of delaying or preventing a takeover of us that would otherwise be beneficial to investors. Our ability to make scheduled payments of the principal of, to pay interest on, or to refinance our indebtedness, including our Convertible Notes, depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. In addition, holders of the Convertible Notes will have the right to require us to repurchase their notes for cash upon the occurrence of certain fundamental changes. Upon conversion of the Convertible Notes, unless we elect to deliver solely shares of our common stock to settle such conversion (other than paying cash in lieu of delivering any fractional share), we will be required to make cash payments in respect of the notes being converted. Our business may not continue to generate cash flow from operations in the future sufficient to service our debt and make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations.