
FORM 10-Q

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

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

For the Quarterly Period Ended March 31, 2017

OR

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

For the transition period from to .

Commission file number: 001-37515

Aqua Metals, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

47-1169572

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

**1010 Atlantic Avenue
Alameda, California 94501**

(Address of principal executive offices, including zip code)

(510) 479-7635

(Registrant's telephone number, including area code)

Not Applicable

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company (as defined in Rule 12b-2 of the Act):

Large accelerated filer

Accelerated filer

Non-accelerated filer
(Do not check if a smaller reporting company)

Smaller reporting company

Emerging growth company

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

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

As of May 8, 2017, there were 20,141,636 outstanding shares of the common stock of Aqua Metals, Inc.

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PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

AQUA METALS, INC.
Condensed Consolidated Balance Sheets
(in thousands, except share and per share amounts)

	<u>March 31, 2017</u> (unaudited)	<u>December 31, 2016</u> (Note 2)
<u>ASSETS</u>		
Current assets		
Cash and cash equivalents	\$ 30,113	\$ 25,458
Restricted cash	576	1,124
Inventory	297	59
Prepaid expenses and other current assets	1,030	729
Total current assets	<u>32,016</u>	<u>27,370</u>
Non-current assets		
Property and equipment, net	43,622	41,392
Intellectual property, net	1,144	1,137
Other assets	1,675	1,630
Total non-current assets	<u>46,441</u>	<u>44,159</u>
Total assets	<u>\$ 78,457</u>	<u>\$ 71,529</u>
<u>LIABILITIES AND STOCKHOLDERS' EQUITY</u>		
Current liabilities		
Accounts payable	\$ 2,640	\$ 1,572
Accrued expenses	1,154	1,975
Deferred rent, current portion	180	177
Notes payable, current portion	314	307
Total current liabilities	<u>4,288</u>	<u>4,031</u>
Deferred rent, non-current portion	917	963
Asset retirement obligation	670	-
Notes payable, non-current portion	9,164	9,238
Convertible note payable, non-current portion	507	307
Total liabilities	<u>15,546</u>	<u>14,539</u>
Commitments and contingencies	-	-
Stockholders' equity		
Common stock; \$0.001 par value; 50,000,000 shares authorized; 19,960,356 and 17,878,725 shares issued and outstanding as of March 31, 2017 and December 31, 2016, respectively	20	18
Additional paid-in capital	96,047	85,234
Accumulated deficit	(33,156)	(28,262)
Total stockholders' equity	<u>62,911</u>	<u>56,990</u>
Total liabilities and stockholders' equity	<u>\$ 78,457</u>	<u>\$ 71,529</u>

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

AQUA METALS, INC.
Condensed Consolidated Statements of Operations
(in thousands, except share and per share amounts)
(Unaudited)

	Three months ended March 31,	
	2017	2016
Operating Expense		
Operations and development costs	\$ 2,987	\$ 883
General and administrative expense	1,528	1,295
Total operating expenses	4,515	2,178
Loss from operations	(4,515)	(2,178)
Other income and expenses		
Interest expense	(388)	(2)
Interest and other income	11	7
Total other income (expense), net	(377)	5
Loss before income tax expense	(4,892)	(2,173)
Income tax expense	(2)	(1)
Net loss	\$ (4,894)	\$ (2,174)
Weighted average shares outstanding, basic and diluted	18,792,850	14,137,442
Basic and diluted net loss per share	\$ (0.26)	\$ (0.15)

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

AQUA METALS, INC.
Condensed Consolidated Statement of Stockholders' Equity
(in thousands, except share amounts)
(Unaudited)

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount			
Balances, December 31, 2016	17,878,725	\$ 18	\$ 85,234	\$ (28,262)	\$ 56,990
Stock based compensation - stock options	-	-	161	-	161
Cashless exercise of warrants	1,121,353	1	(1)	-	-
Exercise of warrants to purchase common stock	2,500	-	15	-	15
Exercise of options to purchase common stock	18,773	-	67	-	67
Common stock issued for cash in February 2017 from Johnson Controls, net of \$67 transaction cost	939,005	1	10,571	-	10,572
Net loss	-	-	-	(4,894)	(4,894)
Balances, March 31, 2017	<u>19,960,356</u>	<u>\$ 20</u>	<u>\$ 96,047</u>	<u>\$ (33,156)</u>	<u>\$ 62,911</u>

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

AQUA METALS, INC.
Condensed Consolidated Statements of Cash Flows
(Unaudited)
(in thousands)

	Three months ended March 31,	
	2017	2016
Cash flows from operating activities:		
Net loss	\$ (4,894)	\$ (2,174)
Reconciliation of net loss to net cash used in operating activities		
Depreciation	665	78
Amortization of intellectual property	36	31
Fair value of warrants issued for consulting services	-	15
Stock option compensation	161	208
Amortization of debt discount	42	-
Amortization of deferred financing costs	22	9
Non-cash convertible note interest expense	146	-
Changes in operating assets and liabilities		
Inventory	(238)	-
Prepaid expenses and other current assets	(301)	(18)
Accounts payable	307	89
Accrued expenses	(53)	84
Deferred rent	(43)	78
Net cash used in operating activities	(4,150)	(1,600)
Cash flows from investing activities:		
Decrease in restricted cash	548	1,131
Purchases of property and equipment	(2,232)	(4,396)
Other assets	(45)	-
Intellectual property related expenditures	(43)	(28)
Net cash used in investing activities	(1,772)	(3,293)
Cash flows from financing activities:		
Proceeds from issuance of common stock, net of transaction costs	10,654	-
Payments on notes payable	(44)	-
Payments on capital leases	(33)	(4)
Net cash provided by (used in) financing activities	10,577	(4)
Net increase (decrease) in cash and cash equivalents	4,655	(4,897)
Cash and cash equivalents at beginning of period	25,458	20,141
Cash and cash equivalents at end of period	\$ 30,113	\$ 15,244
	Three months ended March 31,	
	2017	2016
Non-cash investing activities		
Tenant improvement allowances	\$ -	\$ 78
Non-cash financing activities		
Capital lease	\$ -	\$ 101
Supplemental disclosure of non-cash transactions		
Increase in property and equipment resulting from increase in accounts payable	\$ 761	\$ 3,066
Change in property and equipment resulting from change in accrued expenses	\$ (768)	\$ 1,046
Decrease in restricted cash resulting from a decrease in accounts payable	\$ -	\$ 2,644
Asset retirement obligation offset with asset retirement cost (property and equipment)	\$ 670	\$ -

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

AQUA METALS, INC.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

1. Organization

Aqua Metals, Inc. (the “Company”) was incorporated in Delaware and commenced operations on June 20, 2014 (inception). On January 27, 2015, the Company formed two wholly-owned subsidiaries, Aqua Metals Reno, Inc. (“AMR”), and Aqua Metals Operations, Inc. (collectively, the “Subsidiaries”), both incorporated in Delaware. The Company is reinventing lead recycling with its patent-pending AquaRefining™ technology. Unlike smelting, AquaRefining is a room temperature, water-based process that is fundamentally non-polluting. These modular systems allow the lead-acid battery industry to simultaneously improve environmental impact and scale recycling production to meet demand. The Company intends to manufacture the equipment it has developed, and will also operate lead acid battery recycling facilities.

2. Summary of Significant Accounting Policies

The significant accounting policies and estimates used in preparation of the condensed consolidated financial statements are described in the Company’s audited consolidated financial statements as of and for the year ended December 31, 2016, and the notes thereto, which are included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2016, as filed with the Securities and Exchange Commission, or the SEC, on March 2, 2017. There have been no material changes in the Company’s significant accounting policies during the three months ended March 31, 2017 except for the addition of Asset Retirement Obligations, as described below.

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) as found in the Accounting Standards Codification (“ASC”) and Accounting Standards Update (“ASU”) of the Financial Accounting Standards Board (“FASB”) and pursuant to the rules and regulations of the SEC. Accordingly, they do not include all of the information and footnotes required by such accounting principles for complete financial statements. In the opinion of management, all adjustments (which include normal recurring adjustments) considered necessary to present fairly each of the condensed consolidated balance sheet as of March 31, 2017, the condensed consolidated statements of operations for the three months ended March 31, 2017 and March 31, 2016, the condensed consolidated statement of stockholders’ equity for the three months ended March 31, 2017 and the statements of cash flows for the three months ended March 31, 2017 and March 31, 2016, as applicable have been made. The condensed consolidated balance sheet as of December 31, 2016 has been derived from our audited financial statements as of such date, but does not include all disclosures required by U.S. GAAP. The accompanying unaudited condensed consolidated financial statements should be read in conjunction with our audited consolidated financial statements for the period ended December 31, 2016, which are included on Form 10-K filed with the Securities and Exchange Commission on March 2, 2017.

The results of operations for the three months ended March 31, 2017 are not necessarily indicative of results that may be expected for the year ended December 31, 2017.

Principles of consolidation

The accompanying unaudited condensed consolidated financial statements include the accounts of the Company and its Subsidiaries, both of which are wholly-owned subsidiaries. Significant inter-company accounts and transactions have been eliminated in consolidation.

Use of estimates

The preparation of the condensed consolidated financial statements requires management of the Company to make a number of estimates and assumptions relating to the reported amount of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements, and the reported amounts of expenses during the period. Significant items subject to such estimates and assumptions include the carrying amount and valuation of long-lived assets, the valuation of conversion features of convertible debt, valuation allowances for deferred tax assets, the determination of stock option expense and the determination of the fair value of stock warrants issued. Actual results could differ from those estimates.

AQUA METALS, INC.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

Asset retirement obligations

The Company records the fair value of estimated asset retirement obligations (ARO) associated with tangible long-lived assets in the period incurred. Retirement obligations associated with long-lived assets are those for which there is an obligation for closures and/or site remediation at the end of the assets' useful lives. These obligations are initially estimated based on discounted cash flow estimates and are accreted to full value over time through charges to interest expense. In addition, asset retirement costs are capitalized as part of the related asset's carrying value and are depreciated on a straight-line basis over the assets' respective useful lives.

Stock-based compensation

The Company recognizes compensation expense for stock-based compensation in accordance with ASC 718 "Compensation – Stock Compensation." For employee stock-based awards, the Company calculates the fair value of the award on the date of grant using the Black-Scholes-Merton method for stock options; the expense is recognized over the service period for awards to vest.

The estimation of stock-based awards that will ultimately vest requires judgment and to the extent actual results or updated estimates differ from the original estimates, such amounts are recorded as a cumulative adjustment in the period estimates are revised. The Company considers many factors when estimating expected forfeitures, including types of awards, employee class and historical experience.

Net loss per share

Basic net loss per share is computed by dividing net loss by the weighted average number of vested shares outstanding during the period. Diluted net loss per share is computed by giving effect to all potential dilutive common securities, including convertible notes, options and warrants. Potential dilutive common shares include the dilutive effect of the common stock underlying in-the-money stock options as is calculated based on the average share price for each period using the treasury stock method. Under the treasury stock method, the exercise price of an option and the average amount of compensation cost, if any, for future services that the Company has not yet recognized when the option is exercised, are assumed to be used to repurchase shares in the current period.

For all periods presented in this report, convertible notes, stock options, and warrants were not included in the computation of diluted net loss per share because such inclusion would have had an antidilutive effect.

	Three months ended	
	March 31,	
	2017	2016
Excluded potentially dilutive securities (1):		
Convertible note - principal	702,247	-
Consulting warrants to purchase common stock	12,500	491,364
Options to purchase common stock	892,129	767,074
Financing and IPO warrants to purchase common stock	2,384,464	975,380
Total potential dilutive securities	3,991,340	2,233,818

- (1) The number of shares is based on the maximum number of shares issuable on exercise or conversion of the related securities as of the period end. Such amounts have not been adjusted for the treasury stock method or weighted average outstanding calculations as required if the securities were dilutive.

Segment and geographic information

Operating segments are defined as components of an enterprise engaging in business activities for which discrete financial information is available and regularly reviewed by the chief operating decision maker in deciding how to allocate resources and in assessing performance. The Company views its operations and manages its business in one operating segment, and the Company operates in only one geographic segment.

AQUA METALS, INC.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

Recent accounting pronouncements

In January 2016, the FASB issued ASU No. 2016-01, Financial Instruments - Overall: Recognition and Measurement of Financial Assets and Financial Liabilities. The updated guidance enhances the reporting model for financial instruments, which includes amendments to address aspects of recognition, measurement, presentation and disclosure. The amendment to the standard is effective for the Company beginning on June 1, 2018. While the Company is currently assessing the impact of the new standard, it does not expect this new guidance to have a material impact on its consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02 - Leases (ASC 842), which sets out the principles for the recognition, measurement, presentation and disclosure of leases for both parties to a contract (i.e. lessees and lessors). The new standard requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification will determine whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease, respectively. A lessee is also required to record a right-of-use asset and a lease liability for all leases with a term of greater than 12 months regardless of their classification. Leases with a term of 12 months or less will be accounted for similar to existing guidance for operating leases today. ASC 842 supersedes the previous leases standard, ASC 840 Leases. The standard is effective on January 1, 2019, with early adoption permitted. The Company is in the process of evaluating the impact of this new guidance.

In August 2016, the FASB issued ASU 2016-15, Statement of Cash Flows (Topic 230), which simplifies certain elements of cash flow classification. The new guidance is intended to reduce diversity in practice in how certain transactions are classified in the statement of cash flows. The ASU is effective for annual periods beginning after December 15, 2017. The Company is currently evaluating the impact the adoption of the ASU will have on its consolidated financial statements.

There were no other recent accounting pronouncements or changes in accounting pronouncements during the year ended March 31, 2017 that are of significance or potential significance to the Company.

3. Inventory

Inventory consisted of the following (in thousands):

	March 31, 2017	December 31, 2016
Finished goods	\$ 123	\$ -
Work in process	96	-
Raw materials	78	59
	<u>297</u>	<u>59</u>

AQUA METALS, INC.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

4. Property and equipment, net

Property and equipment, net, consisted of the following (in thousands):

Asset Class	Useful Life (Years)	March 31, 2017	December 31, 2016
Operational equipment	3-10	\$ 15,742	\$ 15,132
Lab equipment	5	551	547
Computer equipment	3	156	140
Office furniture and equipment	5	300	298
Leasehold improvements	5-7	1,408	1,408
Land	-	1,048	1,047
Building	39	23,447	21,962
Asset Retirement Cost	20	670	-
Equipment under construction	10	1,742	1,635
		<u>45,064</u>	<u>42,169</u>
Less: accumulated depreciation		<u>(1,442)</u>	<u>(777)</u>
		<u>\$ 43,622</u>	<u>\$ 41,392</u>

Depreciation expense was \$665,000 and \$78,000 for the three months ended March 31, 2017 and March 31, 2016, respectively. The building is a 136,750 square foot lead acid battery recycling plant being built in McCarran, Nevada. Equipment under construction is primarily AquaRefining modules manufactured by the Company to be used in the McCarran, Nevada recycling plant.

Certain costs necessary to make the recycling facility ready for its intended use have been capitalized, including interest expense on notes payable. Capitalized interest totaled \$152,000 for the three months ended March 31, 2016. Capitalization of interest ceased upon completion of the building in early November 2016.

5. Asset Retirement Obligation

ASC Topic 410-20, "Asset Retirement and Environmental Obligations, Asset Retirement Obligations" requires the recording of a liability in the period in which an asset retirement obligation is incurred, in an amount equal to the discounted estimated fair value of the obligation that is capitalized. In each subsequent fiscal quarter, this liability is accreted up to the final retirement cost. The determination of the ARO is based on an estimate of the future cost to remove and decontaminate the McCarran facility upon closure. The actual costs could be higher or lower than current estimates. The discounted estimated fair value of the closure costs is \$670,000 and the obligation was recorded as of March 31, 2017, when the obligation was deemed to have occurred. Offsetting this ARO is, as noted in Note 4 above, an asset retirement cost of the same amount that has been capitalized. The estimated fair value of the closure costs is based on vendor quotes to remove and decontaminate the McCarran facility in accordance with the Company's closure plan as filed with the State of Nevada in its "Application for the Recycling of Hazardous Waste, by Written Determination" in 2016. The Company has entered into a facility closure trust agreement for the benefit of the Nevada Division of Environmental Protection (NDEP), an agency of the Nevada Division of Conservation and Natural Resources. Funds deposited in the Trust are to be available when and if needed, for potential decontamination and hazardous material cleanup in connection with the closure and/or post-closure care of the facility. The trustee will reimburse the Company or other persons as specified by the NDEP from the fund for closure and post-closure expenditures in such amounts as the NDEP shall direct in writing. \$100,000 was contributed to the Trust Fund on October 31, 2016 and is included in Other Assets on the condensed consolidated balance sheet; \$350,000 will be due and payable on October 31, 2017, and \$220,000 will be due on October 31, 2018.

AQUA METALS, INC.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

6. Convertible Notes

Convertible note payable is comprised of the following (in thousands):

	March 31, 2017	December 31, 2016
Convertible note payable	\$ 5,000	\$ 5,000
Accrued interest	489	343
Deferred financing costs, net	(103)	(115)
Note discount	(4,879)	(4,921)
Convertible note payable, non-current portion	<u>\$ 507</u>	<u>\$ 307</u>

7. Notes Payable

AMR entered into a \$10,000,000 loan with Green Bank on November 3, 2015. The term of the loan is twenty-one years. During the first twelve months, only interest was payable and thereafter monthly payments of interest and principal are due. The interest rate will adjust on the first day of each calendar quarter to the greater of six percent (6%) or two percent (2%) per annum above the minimum prime lending rate charged by large U.S. money center commercial banks as published in the Wall Street Journal. The terms of the Loan Agreement contain various affirmative and negative covenants. Among them, AMR must maintain a minimum debt service coverage ratio of 1.25 to 1.0 (beginning with the twelve-month period ending March 31, 2017), a maximum debt-to-net worth ratio of 1.0 to 1.0 and a minimum current ratio of 1.5 to 1.0. AMR was in compliance with all but the minimum debt service coverage ratio covenant as of and for the three months ended March 31, 2017. The Company has received a waiver for the minimum debt service coverage ratio covenant for the periods ending March 31, 2017 and June 30, 2017.

The net proceeds of the loan were deposited into an escrow account at Green Bank. The funds are being released as payment for the building being constructed in McCarran, NV to house AMR's lead acid recycling operation. Collateral for this loan is AMR's accounts receivable, goods, equipment, fixtures, inventory, accessions and a certificate of deposit in the amount of \$1,000,000.

The loan is guaranteed by the United States Department of Agriculture Rural Development ("USDA"), in the amount of 90% of the principal amount of the loan. The Company paid a guarantee fee to the USDA in the amount of \$270,000 at the time of closing and will be required to pay to the USDA an annual fee in the amount of 0.50% of the guaranteed portion of the outstanding principal balance of the loan as of December 31 of each year.

Notes payable is comprised of the following (in thousands):

	March 31, 2017	December 31, 2016
Notes payable, current portion		
Thermo Fisher Financial Service	\$ 141	\$ 137
Green Bank, net of issuance costs	173	170
	<u>\$ 314</u>	<u>\$ 307</u>
Notes payable, non-current portion		
Thermo Fisher Financial Service	\$ 101	\$ 138
Green Bank, net of issuance costs	9,063	9,100
	<u>\$ 9,164</u>	<u>\$ 9,238</u>

The Thermo Fisher Financial Service obligations relate to capital leases. The costs associated with obtaining the Green Bank loan were recorded as a reduction to the carrying amount of the note and are being amortized as interest expense within the condensed consolidated statements of operations over the twenty-one year life of the loan.

AQUA METALS, INC.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

8. Stockholders' Equity

Investment Agreement

On February 7, 2017, the Company entered into a Stock Purchase Agreement with Johnson Controls pursuant to which the Company issued and sold to a wholly-owned subsidiary of Johnson Controls International plc, ("Johnson Controls"), 939,005 shares of its common stock at \$11.33 per share for the gross proceeds of approximately \$10.6 million. The Stock Purchase Agreement includes customary representations, warranties, and covenants by Johnson Controls and us, and an indemnity from the Company in favor of Johnson Controls.

In connection with the investment transactions, the Company also entered into an Investors Rights Agreement dated February 7, 2017 with Johnson Controls pursuant to which the Company granted Johnson Controls customary demand and piggyback registration rights, limited board observation rights and limited preemptive rights allowing Johnson Controls the right to purchase its proportional share of certain future equity issuances by the Company. The board observation and preemptive rights shall expire on the earlier of (i) such time as Johnson Controls no longer owns 50% of the acquired shares or (ii) the termination of both the Tolling/Lead Purchase Agreement and Equipment Supply Agreement.

There were no sales commissions paid by the Company in connection with the sale of our common shares to Johnson Controls.

Warrants exercised

During the three months ended March 31, 2017, 1,123,853 shares were issued pursuant to cash and cashless warrant exercises as detailed below. Generally, the warrants specify using the preceding five-day average of closing prices for the Company's common stock in the calculation of common stock to be issued pursuant to a cashless exercise.

Date	Average Closing Market Price Per Share	Exercise Price Per Share	Warrant Shares Exercised	Common Shares Issued
2/10/2017	\$ 11.016	\$ 0.0034375	392,728	392,605
2/13/2017	\$ 13.062	\$ 3.00	25,119	19,349
2/13/2017	\$ 13.062	\$ 6.00	72,420	39,154
2/15/2017	\$ 16.768	\$ 6.00	65,177	41,856
2/16/2017	\$ 16.768	\$ 6.00	35,000	22,470
3/17/2017	\$ 20.262	\$ 6.00	2,500	2,500
3/20/2017	\$ 20.304	\$ 3.00	226,068	192,666
3/20/2017	\$ 20.304	\$ 6.00	586,596	413,253
			<u>1,405,608</u>	<u>1,123,853</u>

AQUA METALS, INC.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

Warrants outstanding

Warrants to purchase shares of the Company's common stock at a weighted average exercise price of \$8.28 are as follows.

Exercise Price per Share	Expiration Date	Shares Subject to purchase at March 31, 2017
\$ 0.0034375	9/8/2017	43,636
\$ 6.00	7/31/2018	12,500
\$ 7.12	5/18/2018	702,247
\$ 9.00	5/18/2019	1,605,131
\$ 10.00	11/21/2019	33,450
		2,396,964

Subsequent to March 31, 2017, 51,943 shares were issued pursuant to cashless warrant exercises of 56,136 warrants (the first two lines above).

Stock based compensation

The stock-based compensation expense attributable to option grants granted was allocated as follows:

	Three months ended March 31,	
	2017	2016
Operations and development costs	\$ 87	\$ 51
General and administrative expense	74	157
Total	\$ 161	\$ 208

The following assumptions were used in the Black-Scholes-Merton pricing model to estimate the fair value of the options.

	Three months ended March 31,	
	2017	2016
Expected stock volatility	70.92% - 72.18%	80%
Risk free interest rate	1.53% - 1.79%	1.11% - 1.77%
Expected years until exercise	3.50	3.50
Dividend yield	0%	0%

The Company issued 18,773 shares of common stock for the three months ended March 31, 2017 upon stock option exercises.

9. Commitments and Contingencies

Interstate Battery Agreement commitment

Pursuant to the Interstate Battery Investor Rights Agreement, the Company has agreed to compensate Interstate Battery should either Stephen Clarke, the Company's current chief executive officer, or Selwyn Mould, the Company's current chief operating officer, no longer hold such positions or no longer devote substantially all of their business time and attention to the Company, whether as a result of resignation, death, disability or otherwise (such an event referred to as a "key-man event"). The Company has agreed to pay Interstate Battery \$2.0 million, per occurrence, if either officer is subject to a key-man event during the two years following May 18, 2016. The Company also agreed to pay Interstate Battery \$2.0 million if either or both officers are subject to a key-man event during the third year following May 18, 2016.

AQUA METALS, INC.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

Johnson Controls Agreement Commitment

Pursuant to the Johnson Controls Investor Rights Agreement, the Company has agreed to compensate Johnson Controls should either Stephen Clarke, the Company's current chief executive officer, or Selwyn Mould, the Company's current chief operating officer, no longer hold such positions or no longer devote substantially all of their business time and attention to the Company, whether as a result of resignation, death, disability or otherwise (such an event referred to as a "key-man event"). The Company has agreed to pay Johnson Controls \$1.0 million per occurrence, if either officer is subject to a key-man event during the 18 months following February 7, 2017. The Company also agreed to pay Johnson Controls \$1.0 million if either or both key-man events occur after 18 months and prior to 30 months following February 7, 2017.

10. Subsequent Events

The Company has evaluated subsequent events through the date which the condensed consolidated financial statements were available to be issued.

On April 13, 2017, when the closing market price of our stock was \$17.36, we entered into an agreement to purchase all of the capital shares of Ebonex IPR Limited, a company registered in England and Wales. Ebonex IPR Limited is a pre-revenue IP-based company that has developed patented technology in the field of advanced materials and manufacturing methods for advanced lead acid batteries. In consideration of our acquisition of all of the capital shares of Ebonex IPR Limited, we paid \$100,000 in cash and issued 123,776 shares of our common stock. The agreement contains customary representations, warranties and indemnities.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Cautionary Statement

The following discussion and analysis should be read in conjunction with our unaudited condensed consolidated financial statements and the related notes thereto contained elsewhere in this report. The information contained in this quarterly report on Form 10-Q is not a complete description of our business or the risks associated with an investment in our common stock. We urge you to carefully review and consider the various disclosures made by us in this report and in our other filings with the Securities and Exchange Commission, or SEC, including our Annual Report on Form 10-K for the year ended December 31, 2016 filed with the SEC on March 2, 2017, or our Annual Report.

In this report we make, and from time to time we otherwise make, written and oral statements regarding our business and prospects, such as projections of future performance, statements of management's plans and objectives, forecasts of market trends, and other matters that are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Statements containing the words or phrases "will likely result," "are expected to," "will continue," "is anticipated," "estimates," "projects," "believes," "expects," "anticipates," "intends," "target," "goal," "plans," "objective," "should" or similar expressions identify forward-looking statements, which may appear in documents, reports, filings with the SEC, news releases, written or oral presentations made by officers or other representatives made by us to analysts, stockholders, investors, news organizations and others, and discussions with management and other of our representatives.

Our future results, including results related to forward-looking statements, involve a number of risks and uncertainties, including those risks included in the section "Risk Factors" set forth in our Annual Report on Form 10-K for the year ended December 31, 2016, as filed with the SEC on March 2, 2017. No assurance can be given that the results reflected in any forward-looking statements will be achieved. Any forward-looking statement speaks only as of the date on which such statement is made. Our forward-looking statements are based upon assumptions that are sometimes based upon estimates, data, communications and other information from suppliers, government agencies and other sources that may be subject to revision. Except as required by law, we do not undertake any obligation to update or keep current either (i) any forward-looking statement to reflect events or circumstances arising after the date of such statement or (ii) the important factors that could cause our future results to differ materially from historical results or trends, results anticipated or planned by us, or which are reflected from time to time in any forward-looking statement.

General

Aqua Metals (NASDAQ: AQMS) is reinventing lead recycling with its patent-pending AquaRefiningTM technology. Unlike smelting, AquaRefining is a room temperature, water-based process that is fundamentally non-polluting. These modular systems allow the lead-acid battery industry to simultaneously improve environmental impact and scale recycling production to meet demand. Aqua Metals is based in Alameda, California, and has built its first recycling facility in Nevada's Tahoe Reno Industrial Complex. We were formed as a Delaware corporation on June 20, 2014 and since our formation, we have focused our efforts on the development and testing of our AquaRefining process, the development of our business plan, the raise of our present working capital and the development of our initial lead acid battery, or LAB, recycling facility in the Tahoe Regional Industrial Center, McCarran, Nevada ("TRIC").

We have completed the development of our initial LAB recycling facility at TRIC and commenced production during January 2017. Lead compounds and plastic produced in the quarter were not shipped as details were still being worked out for delivery to customers. Shipments began in April 2017. We expect TRIC to achieve a production rate of 120 metric tons of recycled lead per day by the end of 2017.

Since our organization in 2014, we have engaged in the following financing transactions:

Convertible Note Placement. Prior to our initial public offering, we capitalized our operations with equity contributions and advances from our founders, our receipt of a \$0.5 million investment from Wirtz Manufacturing Co. Inc. and our receipt of \$5.5 million of capital from our private placement sale of senior secured convertible promissory notes, which we refer to as our "convertible notes", in October 2014. Pursuant to the terms of our investment agreement with Wirtz Manufacturing Co. Inc., Wirtz exchanged its investment in our company for a convertible note sold in the October 2014 private placement. As a result, we had issued and outstanding convertible notes in the aggregate principal amount of \$6.0 million, with accrued and unpaid interest as of August 5, 2015 in the amount of \$0.3 million. All principal and accrued interest under the convertible notes converted into shares of our common stock at the close of our initial public offering on August 5, 2015.

Initial Public Offering. On July 31, 2015, we conducted an initial public offering of 6.6 million shares of our common stock, at the public offering price of \$5.00 per share. After the payment of underwriter discounts and offering expenses, and after giving effect to the underwriters' exercise of its overallotment option on August 13, 2015 to purchase an additional 641,930 shares of our common stock at the offering price of \$5.00 per share, we received net proceeds of approximately \$32.9 million.

Pursuant to the terms of the above convertible notes, all principal and interest under the convertible notes automatically converted into shares of our common stock upon the completion of the initial public offering at the conversion price of \$2.50 per share. As of the close of our initial public offering, all principal and interest, including \$6.0 million of principal and \$0.3 million of accrued interest, under the convertible notes automatically converted into 2,511,871 shares of our common stock.

Green Bank Loan. On November 3, 2015, Aqua Metals Reno, Inc., our wholly-owned subsidiary, entered into a Loan Agreement with Green Bank, N.A. pursuant to which Green Bank provided us with a loan in the amount of \$10.0 million. The loan proceeds were applied towards the development of our TRIC facility. The loan accrues interest at an annual rate of the Wall Street Journal Prime Rate Index plus a margin of 2.00% per year, adjusted quarterly, with a floor rate of 6.00% per year. Interest-only payments were due monthly for the first twelve months. Thereafter, principal and interest are due monthly and are fully amortized over 20 years. The loan is collateralized by the real estate, plant and fixtures at the TRIC facility and a certificate of deposit of \$1.0 million at Green Bank. Additionally, the terms of the Loan Agreement contain various affirmative and negative covenants. Among them, Aqua Metals Reno, Inc. must maintain a minimum debt service coverage ratio of 1.25 to 1.0, a maximum debt-to-net worth ratio of 1.0 to 1.0 and a minimum current ratio of 1.5 to 1.0.

The loan is guaranteed by the United States Department of Agriculture Rural Development, or USDA, in the amount of 90% of the principal amount of the loan. We paid a guarantee fee to USDA in the amount of \$270,000 at the time of closing of the Loan Agreement and we will be required to pay to USDA an annual renewal fee in the amount of 0.50% of the guaranteed portion of the outstanding principal balance of the loan as of December 31 of each year.

Interstate Battery Investment. On May 18, 2016, we entered into definitive agreements with Interstate Battery System International, Inc. ("Interstate Battery") and other investors for the sale of approximately \$15.1 million of our equity and debt securities, including a \$10.0 million investment by Interstate Battery, the largest independent battery distributor in North America. At the same time, we also entered into a supply agreement with Interstate Battery pursuant to which Interstate Battery will supply us with used LABs as feedstock for our AquaRefineries. The investment transactions closed on May 24, 2016.

Pursuant to the investment agreements with Interstate Battery, Interstate Battery:

- Purchased 702,247 shares of our common stock at \$7.12 per share for the gross proceeds of approximately \$5.0 million; and
- Loaned us \$5.0 million pursuant to a secured convertible promissory in the original principal amount of \$5.0 million. The note will bear interest at the rate of eleven percent (11%) per annum, compounding monthly, and all interest shall be payable upon the earlier of maturity or conversion of the principal amount. The outstanding principal is convertible into our common shares at a conversion price of \$7.12 per share. Our obligations under the loan are secured by a second priority lien interest on our assets, other than our intellectual property. The loan will mature on May 18, 2019.

In connection with the agreements, we granted Interstate Battery warrants to purchase our common stock, including:

- a fully vested warrant to purchase 702,247 shares of our common stock, at an exercise price of \$7.12 per share, expiring on May 24, 2018; and
- a warrant to purchase 1,605,131 shares of our common stock, at an exercise price of \$9.00 per share, vesting on November 16, 2016 and expiring on May 24, 2019.

We granted Interstate Battery customary demand and piggyback registration rights, limited board observation rights over the next three years and limited preemptive rights allowing it to purchase its proportional share of certain future equity issuances by us over the next three years. We included all of the Interstate Battery shares in our Form S-3 Registration Statement filed with the Securities and Exchange Commission on August 1, 2016.

If Interstate Battery were to convert its convertible note and exercise both warrants in their entirety as of the date of this report, it would own approximately 16.6% of the common stock of Aqua Metals at an average price per share of approximately \$7.93.

We also entered into a definitive agreement with certain accredited investors to sell approximately \$5.1 million of our common stock through National Securities Corporation as placement agent. Pursuant to this agreement, we sold 719,333 of shares of our common stock, at the price of \$7.12 per share, for gross proceeds of approximately \$5.1 million.

Public Offering. On November 21, 2016, we completed a public offering of 2.3 million shares of our common stock, at the public offering price of \$10.00 per share, for gross proceeds of \$23.0 million. The completed offering includes shares issued by the exercise in full of the underwriter's over-allotment option. After the payment of underwriter discounts and offering expenses we received net proceeds of approximately \$21.5 million. In connection with the underwriting agreement, we issued a warrant for 33,450 shares of our common stock, at an exercise price of \$10.00 per share, exercisable commencing on May 20, 2017 and expiring on November 21, 2019.

Johnson Controls Investment. In connection with our entry into the equipment supply agreement and tolling/lead purchase agreement with Johnson Controls, on February 7, 2017, we entered into a stock purchase agreement with Johnson Controls pursuant to which we sold to Johnson Controls 939,005 shares of our common stock at \$11.33 per share for the gross proceeds of approximately \$10.6 million. We granted Johnson Controls customary demand and piggyback registration rights, limited board observation rights and limited preemptive rights allowing it to purchase its proportional share of certain future equity issuances by us. We included all of the Johnson Controls shares in our Form S-3 Registration Statement filed with the Securities and Exchange Commission on February 27, 2017.

Plan of Operations

We have completed the development of our initial LAB recycling facility at TRIC and commenced production during January 2017. Our plan of operations for the 12-month period following the date of this report is to expand operations at our first recycling facility at TRIC to 120 tonnes of lead production per day by the end of 2017. In the longer term, our goal is to increase our production of lead at our TRIC facility to 160 tonnes per day. Our 12-month plan of operations also includes our collaboration with Johnson Controls for the development of a program for the installation of new greenfield builds and conversion of Johnson Controls and certain strategic partners of Johnson Controls' existing lead smelters throughout North America, China and Europe to a lead recycling process utilizing our proprietary and patent-pending AquaRefining technology and equipment, know-how and services. Finally, our 12-month plan of operations includes our continued pursuit of the expansion of our business with additional recycling facilities and licensing of our recycling technology and equipment to third parties.

Separately, we continue to pursue providers of non-dilutive capital to finance up to an additional four facilities, each of which would have a production capacity of approximately 160 tonnes per day. Through the supply and off-take relationships that we have established with Battery Systems Inc., Interstate Battery and Johnson Controls, we believe we are better positioned to acquire the necessary funding, including potential forms of non-diluting financing, in order to finance our next facilities. However, as of the date of this report, we have no formal agreements with regard to the financing and there can be no assurance that we will be able to consummate an agreement on terms acceptable to us, or at all.

Results of Operations

To date, our operations have consisted of the development and limited testing of our AquaRefining process, the development of our business plan, the raise of our present working capital and the development of our initial lead acid battery, or LAB, recycling facility near Reno, Nevada. The following table summarizes results of operations with respect to the items set forth below for the three months ended March 31, 2017 and 2016 together with the percentage change in those items (in thousands).

	Three months ended March 31,			
	2017	2016	Favorable (Unfavorable)	% Change
Operations and development costs	\$ 2,987	\$ 883	\$ (2,104)	-238.28%
General and administrative expense	1,528	1,295	(233)	-17.99%

Operations and development costs have more than tripled over the comparative period. The increase is due to the increased level of operations following the ramp up of operations at our plant in TRIC. Salary related expenses have tripled for the three-month period in 2017 compared to 2016. Average head-count has increased four-fold from the previous period, however the more recent hires are more junior-level employees, somewhat reducing the per person cost of labor. Our research and development expenses have doubled for the three-month period ended March 31, 2017 compared to the previous period and includes costs incurred to prepare our TRIC plant for operations. Other increases include professional services, depreciation, insurance, travel and general overhead costs due to our increased activities.

General and administrative expense has increased to \$1.5 million from \$1.3 million, or 18%, during the three-month period ended March 31, 2017 compared to the prior year period. Average headcount has increased by 12.5% between periods; additional increases are due to professional services, including third-party consulting, and smaller increases in depreciation, travel, insurance and general overhead costs.

	Three months ended September 30,			
	2017	2016	Favorable (Unfavorable)	% Change
Other (expense) income				
Interest expense	(388)	(2)	386	19300.00%
Interest income	11	7	(4)	57.14%

Interest during the three months ended March 31, 2017 relates primarily to the \$5.0 million Interstate Battery convertible note and the \$10.0 million notes payable, amortization of debt issuance costs incurred in connection with both of these notes, as well as an accrual for the USDA guarantee fee on the \$10.0 million note. Interest relating to the \$10.0 million notes payable during the three-month period ended March 31, 2016 was capitalized as part of the building cost of the TRIC facility in the amount of \$152,000. Interest capitalization ceased upon completion of the building in November 2016.

The note discount associated with the Interstate Battery convertible note is being amortized using the effective interest method over the three-year term of the note, maturing on May 24, 2019. Using the effective interest method results in higher expense in later periods. Thus, non-cash interest expense associated with the note discount amortization will be \$360,000 in 2017, \$2.0 million in 2018 and \$2.6 million in 2019.

Liquidity and Capital Resources

As of March 31, 2017, we had total assets of \$78.5 million and working capital of \$27.7 million.

The following table summarizes our cash used in operating, investing and financing activities (in thousands):

	Three months ended March 31,	
	2017	2016
Net cash used in operating activities	(4,150)	(1,600)
Net cash used in investing activities	(1,772)	(3,293)
Net cash provided by (used in) financing activities	10,577	(4)

Net cash used in operating activities

Net cash used in operating activities for the three months ended March 31, 2017 and 2016 was \$4.2 million and \$1.6 million, respectively. Net cash used in operating activities during each of these periods consisted primarily of our net loss adjusted for noncash items such as depreciation, amortization, stock-based compensation charges, as well as net changes in working capital.

Net cash used in investing activities

Net cash used in investing activities for the three months ended March 31, 2017 and 2016 was \$1.8 million and \$3.3 million, respectively. Net cash used in investing activities during each of these periods consists primarily of purchases of fixed assets related to the build out of our TRIC recycling facility in Nevada and, to a lesser extent, our corporate headquarters.

Net cash provided by (used in) financing activities

Net cash provided by financing activities for the three months ended March 31, 2017 primarily consists of \$10.6 million net proceeds from the issuance of common stock to Johnson Controls partially offset by lease and debt payments. Net cash used by financing activities for the three months ended March 31, 2016 consisted of lease payments on capital leases.

As of the date of this report, we believe that our working capital is sufficient to fund our current business plan over the next 12 months, including the attainment of production at the rate of 120 tonnes of recycled lead per day by the end of 2017. However, we will require additional capital in order to fund our proposed development of additional AquaRefining recycling facilities. We intend to seek additional funds through various financing sources, including the sale of our equity and debt securities, licensing fees for our technology, joint ventures with capital partners and/or project financing of our recycling facilities. However, there can be no guarantees that such funds will be available on commercially reasonable terms, if at all. If such financing is not available on satisfactory terms, we may be unable to further pursue our business plan and we may be unable to continue operations.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet financing arrangements.

Item 3. Quantitative and Qualitative Disclosures about Market Risks

Not applicable.

Item 4. Controls and Procedures**Evaluation of Disclosure Controls and Procedures**

Our management, with the participation of our chief executive officer and chief financial officer, has evaluated the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15 of the Securities Exchange Act of 1934. Based on this evaluation, management concluded that our disclosure controls and procedures were effective as of March 31, 2017.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the three-month period ended March 31, 2017 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

Item 1A. Risk Factors

There have been no material changes from the risk factors set forth in the Company's Annual Report on Form 10-K for the year ended December 31, 2016, as filed with the SEC on March 3, 2017.

Item 6. Exhibits

Exhibit No.	Description	Method of Filing
3.1	First Amended and Restated Certificate of Incorporation of the Registrant	Incorporated by reference from the Registrant's Registration Statement on Form S-1 filed on July 22, 2015.
3.2	Amended and Restated Bylaws of the Registrant	Incorporated by reference from the Registrant's Registration Statement on Form S-1 filed on June 9, 2015.
3.3	Certificate of Amendment to First Amended and Restated Certificate of Incorporation of the Registrant	Incorporated by reference from the Registrant's Registration Statement on Form S-1 filed on June 9, 2015.
10.1*	<u>Tolling/Lead Purchase Agreement dated February 7, 2017 between the Registrant and Johnson Controls Battery Group, Inc.</u>	Filed electronically herewith
10.2*	<u>Equipment Supply Agreement dated February 7, 2017 between the Registrant and Johnson Controls Battery Group, Inc.</u>	Filed electronically herewith
10.3	<u>Stock Purchase Agreement dated February 7, 2017 between the Registrant and Tyco International Finance S.A.</u>	Filed electronically herewith
10.4	Investor Rights Agreement dated February 7, 2017 between the Registrant and Tyco International Finance S.A.	Incorporated by reference from the Registrant's Registration Statement on Form S-3 filed on February 27, 2017
31.1	<u>Certifications Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>	Filed electronically herewith
31.2	<u>Certifications Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>	Filed electronically herewith
32.1	<u>Certification of Principal Executive Officer and Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350).</u>	Filed electronically herewith
101.INS	XBRL Instance Document	Filed electronically herewith
101.SCH	XBRL Taxonomy Extension Schema Document	Filed electronically herewith
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document	Filed electronically herewith
101.LAB	XBRL Taxonomy Extension Label Linkbase Document	Filed electronically herewith
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document	Filed electronically herewith
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document	Filed electronically herewith

* Certain portions of the exhibit have been omitted pursuant to Registrant's confidential treatment request filed with the Commission pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

SIGNATURES

In accordance with the requirements of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

AQUA METALS, INC.

Date: May 10, 2017

By: /s/ Stephen R. Clarke
Stephen R. Clarke,
President and Chief Executive Officer

Date: May 10, 2017

By: /s/ Thomas Murphy
Thomas Murphy,
Chief Financial Officer

TOLLING / LEAD PURCHASE AGREEMENT

This Tolling / Lead Purchase Agreement (the "Agreement") is entered into by and between JOHNSON CONTROLS BATTERY GROUP, INC., a Wisconsin corporation ("Buyer"), and AQUA METALS, INC., a Delaware corporation ("Supplier"), (each a "Party" and, collectively, the "Parties"), as of this 7th day of February 2017 (the "Effective Date").

WHEREAS, Buyer manufactures and sells lead-acid batteries; and

WHEREAS, Supplier is a supplier of lead and lead alloys with specialized skills, knowledge and experience in processing and recycling lead bearing materials used in manufacturing lead-acid batteries; and

WHEREAS, pursuant to the terms and conditions of this Agreement, Buyer desires to purchase from Supplier, and Supplier desires to sell to Buyer, certain Products.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Capitalized terms have the meanings defined in this Agreement.

1.1 "Affiliate" shall mean any organization or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such organization or entity. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an organization or entity, whether through the ownership of voting securities, by contract or otherwise

1.2 "Forecast" means Buyer's and Supplier's nonbinding, advance calculation of its future requirements or production, respectively.

1.3 "MT" shall mean metric ton(s) with a unit of one (1) metric ton being equal to 2,204.6 pounds.

1.4 "Product" or "Products" shall mean the lead, lead alloys and poly chips sold by Supplier to Buyer.

1.5 "Raw Materials" is defined in Exhibit B.

1.6 "Specifications" shall mean the chemical composition and related details for a Product as identified in Exhibit C.

1.7 "Tolling Services" shall mean the process of recycling the Raw Materials into various lead, lead alloys and poly chips.

1.8 "U.S. Dollars" or "\$" or "USD" shall mean the currency of the United States of America.

2. Supply of Products.

2.1 Sale of Products. Subject to the terms and conditions of this Agreement, during the Term, Buyer and its Affiliates shall purchase from Supplier, and Supplier shall sell to Buyer and its Affiliates, each on a non-exclusive basis, the products listed on **Exhibit A** (the “Products”).

2.2 Joint and Several Liability. Buyer shall execute Exhibit A-1, and two of its Affiliates shall each execute Exhibits A-2 and A-3. The duties, rights and obligations for Buyer under Exhibit A-1 and the Affiliates executing Exhibits A-2 and A-3 shall be several and not joint with respect to the particular entity executing Exhibit A-1, A-2 or A-3 respectively. No Buyer Affiliate shall have any duties, rights and obligations hereunder until such time as they execute Exhibits A-2 or A-3. Notwithstanding the foregoing, however, during the Term of this Agreement, Affiliates of Buyer located in North America shall be permitted to submit Purchase Orders under Exhibit A-1 and Affiliates of Buyer located in the Regions of Europe and China may submit Purchase Orders under Exhibits A-2 and A-3, respectively, when and if such Exhibits are executed, subject to and commensurate with the rights and obligations of Buyer or the Buyer Affiliates executing Exhibit A-1, A-2 or A-3, as the case may be. Further, Buyer or the Buyer Affiliate executing Exhibits A-2 or A-3 shall be responsible under the terms of this Agreement for all Purchase Orders submitted by their Affiliates in their respective Regions pursuant to Exhibit A-1, A-2 or A-3.

2.3 Manufacturing Specifications and Locations. During the Term of this Agreement Supplier shall produce the Products ordered by Buyer through its Tolling Services. Supplier shall produce the Products at its McCarren, Nevada facility, or at additional Supplier facilities as may be mutually agreed after the date of this Agreement (each a “Facility”). All such Products shall meet the specifications on **Exhibit C** (the “Specifications”). Buyer shall have the right to change its Specifications upon thirty (30) days written notice without the approval of Supplier. The parties shall mutually discuss the impact of the change in Specifications and Supplier shall not be obligated to supply product meeting to the new specifications except by mutual agreement.

2.4 Raw Materials. Buyer shall provide the Raw Materials necessary to permit Supplier’s orderly production and supply of the tolled Products through its Tolling Services, subject to the terms and conditions on **Exhibit B** and any other applicable terms set out in this Agreement.

3. Forecasts and Purchase Orders.

3.1 Buyer’s Tolling Forecasts. Commencing sixty (60) days following Supplier’s written notice to Buyer of Supplier’s readiness to commence Tolling Services, and for Supplier’s capacity planning and commitment purposes, Buyer will provide to Supplier by the first business day of every month a 30-day forecast of its Tolling requirements for the next succeeding month (“Forecast Month”) (e.g., on March 1, 2017, Buyer shall deliver a forecast for the 30 days ending April 30, 2017 and the 30 days ending April 30, 2017 shall be the Forecast Month), setting out the volume of tolled Products that Buyer anticipates it will order in the Forecast Month (“Buyer’s Forecast”). Supplier shall provide, within five (5) business days following receipt of the Forecast, written confirmation that it can supply the volume of tolled Products in the Forecast month. Buyer may provide amendments to its Forecast subject only to the prior written consent of Supplier, which consents shall not be unreasonably withheld.

3 . 2 Supplier's Covered Lead Forecast. Commencing sixty (60) days following Supplier's written notice to Buyer of Supplier's readiness to commence the sale of Covered Lead (as defined In Exhibit A-1), Supplier will provide to Buyer by the first business day of every month a seventh month rolling forecast of its expected production of Covered Lead ("Supplier's Forecast"). As set forth in Section C.1. of Exhibit A-1, Buyer shall commit to purchase from Supplier the amount of Covered Lead for any given month in Supplier's Forecast unless Supplier provides six months written notice to Supplier of its intention not to purchase any portion of the forecasted amount for such month.

3.3 Purchase Orders. Buyer shall not be committed to purchase, and Supplier shall not be committed to sell, any volume of Products, whether tolled Product or products constituting Covered Lead, until Buyer has issued, and Supplier has accepted, a purchase order (a "Purchase Order") setting out a specific volume of Products, the price as calculated under this Agreement, the date for delivery, and the location to which the Products must be delivered (the "Delivery Location"). Buyer may withdraw a Purchase Order at any time before it is accepted by Supplier. Nothing in this Section 3.3 shall minimize or otherwise affect the obligations under Sections C.1., C.2. and C.3. of Exhibit A-1.

4. Shipment and Delivery.

4.1 Shipment. Delivery shall be made in accordance with the terms of this Agreement and, to the extent not inconsistent with the terms of this Agreement, on the face of Buyer's Purchase Order. Supplier shall give written notice of shipment to Buyer when the Products are delivered to a carrier for transportation. Supplier shall also provide Buyer all shipping documents, including the commercial invoice, packing list, bill of lading and any other documents as mutually agreed by the Parties. In addition, the original bill of lading and related transportation documents shall be furnished by Supplier to the transportation carrier, The Buyer's Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, invoices, correspondence and any other documents pertaining to the Purchase Order.

4.2 Delivery. Supplier shall deliver the Products in the quantities and on the date(s) specified in any Purchase Orders issued and accepted pursuant to this Agreement (the "Delivery Date"). Timely delivery of the Products is of the essence. If Supplier determines that it cannot meet the Buyer's Delivery Date within a given month, Supplier shall immediately inform Buyer and shall make its best efforts to make up for any shortfall in the monthly metric tons of Product, at Buyer's option, within the next thirty (30) days or a later date as per Buyer's needs. Supplier shall prioritize its resources and manufacturing capacity at its Facility to ensure that it can fulfill Buyer's Purchase Orders accepted by Buyer on a priority basis over any other order. If Supplier fails to deliver the Products in full on the Delivery Date (the amount of such shortfall being the "Shortfall"), and the amount of the Shortfall is less than 15% of the required delivery amount, Supplier shall ensure that the amount of the Shortfall is delivered in full within sixty (60) days of the original Delivery Date. If the Shortfall is greater than 15% of the required delivery amount (the amount of the Shortfall in excess of 15% being the "Excess Shortfall"), Buyer shall, upon written notice of election to Supplier, either (i) elect to have Supplier deliver the amount of the Excess Shortfall in full within sixty (60) days of the original Delivery Date or (ii) (A) purchase an amount of Products equal to or less than the Excess Shortfall from an alternative source and demand from Supplier reimbursement for the direct costs and expenses incurred by Buyer in conducting the covering purchase, including the excess of the price for the Product paid by Buyer in the covering purchase over the price payable to Supplier in the unfulfilled Purchase Order for the amount of Products subject to the covering purchase, and (B) require Supplier deliver the balance of the Excess Shortfall not subject to a covering purchase pursuant to (A) to Buyer within sixty (60) days of the original Delivery Date. In the event Buyer elects the option in clause (ii) with respect to an unfulfilled Purchase Order for tolled Products, title to the Raw Material relating to the portion of the Excess Shortfall subject to a covering purchase shall pass to Supplier.

4.3 Title and Risk of Loss. All shipments of Product shall be f.o.b. the Supplier's Facility, at which point the title and risk of loss for such Product will pass to the Buyer.

4.4 Business Interruption and Recovery Plan. Supplier shall develop and maintain a detailed written business interruption and recovery plan, including business impact and risk assessment, crisis management, information technology disaster recovery, and business continuity. Supplier shall update the plan annually and shall notify Buyer in writing within twenty-four (24) hours of any activation of the plan. Supplier shall provide a copy of the plan to Buyer within thirty (30) days of any request.

5. Price and Payment.

5.1 Price.

(a) Lead. The price of the Products, other than tolled Products, is determined as set forth in Sections B.4. and B.5. of **Exhibit A-1**, subject to the *** provisions of Section 5.4.

(b) Tolling. The price of the Raw Materials is determined as set forth in Sections B.1., B.2., B.3. and B.5. of **Exhibit A-1**, subject to the *** provisions of Section 5.5.

5.2 Payment Terms. All invoices shall be dated either the first day or the 15th day of the month following the month in which the sale of the Product occurred. Supplier will send its invoices to Buyer via email by the 4th working day of the month. Until the third (3rd) anniversary of the Effective Date, Buyer will pay the invoices within *** days of the receipt of the invoice or the invoice date, whichever is later (subject to Buyer's twice-per-month check runs), in accordance with Buyer's then current accounts payable policy. After the third (3rd) anniversary of the Effective Date, Buyer will pay the invoices within *** days of the receipt of the invoice or the invoice date, whichever is later, (subject to Buyer's twice-per-month check runs) in accordance with Buyer's then current accounts payable policy. The Parties shall seek to resolve all disputes regarding invoicing and payment expeditiously and in good faith. Supplier shall continue performing its obligations under this Agreement notwithstanding the existence of any such dispute. Any legal action or arbitration proceeding by Supplier under any Purchase Order must be commenced no later than one (1) year after the breach or other event giving rise to the Supplier's claim occurs, or Supplier becomes aware of the existence (or facts and circumstances giving rise to the existence) of such claim, whichever occurs first.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

5.3 Currency. All payments under this Agreement shall be made in United States dollars (US\$), unless otherwise agreed to in writing and signed by the Authorized Representatives of the Parties.

5.4 *** Pricing for Products. *** the prices set forth in in Sections B.4. and B.5. of Exhibit A ***.

5.5 *** Pricing for Tolling Services. *** the prices set forth in Sections B.1., B.2., B.3. and B.5. of Exhibit A-1 ***.

5.6 Audit Rights. The Parties shall have the right to conduct an audit to determine compliance with any provision of this Agreement, upon written notice to the other Party, the requesting Party can initiate an audit at any time during the term of this Agreement and for the 12 month period following the termination or expiration of this Agreement. Upon receipt of the written notice, the Parties shall mutually agree on the scope of the audit. The audit shall be conducted by an appropriate independent outside professional auditing firm (e.g., accountants for financial issues such as *** compliance; environmental auditors for environmental compliance), paid for by the Party requesting the audit and selected at the sole discretion of Party requesting the audit. Prior to the audit, the auditor, Supplier, and Buyer will agree upon a confidentiality agreement in order to maintain the confidentiality of any Confidential Information provided to the auditor. At the conclusion of the audit the auditor shall provide a report setting out the auditor's determination regarding the issues that are the scope of the audit, the basis for the Auditor's determination, and any assumptions made or conclusions drawn as part of the audit process. In the case of an audit for compliance with Sections 5.4 and 5.5 (***), the auditor shall also state in the report the amount of any overcharges or undercharges. As long as notice is provided prior to the expiration or termination of this Agreement, a Party's right to an audit, and the obligations set out in this Section 5.6, shall continue in full force and effect until such time as the audit is completed, regardless of whether the Term of the Agreement ends or the Agreement is terminated prior to the completion of the audit.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

5.7 Record Retention. Supplier and Buyer shall maintain and preserve, for the Term of this Agreement and for not less than one (1) year thereafter, all written and electronic records of all data and information used to calculate the amount of any invoice for Products provided under this Agreement, all records demonstrating the prices paid by Buyer, or charged by Supplier, to any other customers for the same or similar Products and Tolling Services , and any other records related to Buyer's and Supplier's performance under this Agreement. Each party shall bear the cost of maintaining its records.

6. Warranties.

6.1 Supplier's Warranty. Supplier warrants to Buyer that for a period of six (6) months from the Delivery Date, all Products will: (a) conform to applicable Specifications, samples and other requirements specified by Buyer; and (b) be free and clear of all liens, security interests or other encumbrances. If Buyer gives Supplier notice of noncompliance under this Section, Supplier shall, at its own cost and expense, within three (3) business days replace the defective or nonconforming Products and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming products to Supplier and the delivery of replacement Products to Buyer.

6.2 Inspection and Assay of Products. The Buyer has the right to inspect and assay the Products within ninety (90) days of the Delivery Date. Buyer, at its sole option, may inspect and assay a retention sample or a sample of the Products, and Buyer may reject all or any portion of the Products if it determines the Products are nonconforming, defective, or less than the quantity required under the applicable Purchase Order and the terms of this Agreement. The right to inspect and assay the Products does not limit or restrict in any manner Supplier's Warranty contained in Section 6.1.

(a) If Buyer rejects any portion of the Products, pursuant to Section 6.3, Buyer has the right, upon written notice to Supplier, to: (i) rescind the Purchase Order in its entirety; (ii) accept the Products at a reasonably reduced price; or (iii) reject the Products and require replacement of the rejected Products. If Buyer requires replacement of the Products, Supplier shall, at its expense, promptly replace the nonconforming Products and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective Products and the delivery of replacement Products.

(b) If Supplier fails to timely deliver replacement Products, Buyer may replace them with products from a third party and charge Supplier the cost thereof, and terminate the applicable Purchase Order. Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Supplier's obligations under this Agreement, and Buyer shall have the right to conduct further inspections after Supplier has carried out its remedial actions.

6.3 Recall. Supplier shall be responsible for, and shall indemnify and hold harmless Buyer against, all costs associated with any recall campaigns, field service actions or other corrective service actions, whether voluntary, government mandated, or required by any of Buyer's customers, that are attributable to, or partially attributable to, defects in the Products caused by Supplier prior to the time Customer converts the Product; provided where such corrective service action is attributable to both Supplier and Customer, Supplier's liability shall be proportional to its comparative fault. Supplier's liability under this section includes, but is not limited to, all costs associated with producing replacement batteries, all labor costs incurred by Buyer or its customer(s) in replacing the batteries, any attorney's fees, and any other costs arising from or related to the recall, field service action, or other corrective service action, including all attorney's fees or costs arising from any litigation, arbitration, or other proceeding arising out of or related to the recall.

7. Term; Termination.

7.1 Term. The term of this Agreement commences on the Effective Date and continues for a period of five (5) years unless it is terminated earlier as provided in this Agreement (the "Initial Term"). Upon expiration of the Initial Term this Agreement shall extend each day for another three years unless a party has previously provided a termination notice, in which case the Agreement will terminate on the third anniversary of the date of such notice (the "Renewal Term"). The Initial Term and Renewal Term shall be collectively referred to as the "Term".

7.2 Mutual Termination Right. At any time after the second (2nd) anniversary of the Effective Date, either party may terminate this Agreement upon written notice to the other party, which termination shall be effective on the third (3rd) anniversary of the date of such written notice.

7.3 Buyer's Right to Terminate for Cause. Buyer may terminate this Agreement, in whole or in part, for undelivered Products with ten (10) days prior written notice to Supplier. In addition to any remedies that may be provided elsewhere in this Agreement, Buyer may terminate this Agreement with immediate effect upon written notice to the Supplier, either before or after the acceptance of the Products, if Supplier has materially failed to perform or comply with any of the terms and conditions of this Agreement, in whole or in part, where such failure goes uncorrected for ten (10) days following written notice to Supplier. If Supplier becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors (collectively, "Bankruptcy"), then Buyer may terminate this Agreement upon written notice to Supplier. If Buyer terminates this Agreement for any reason, Supplier's sole and exclusive remedy is payment for Products received and accepted by Buyer prior to the termination.

7 . 4 Supplier's Right to Terminate for Cause. Supplier may terminate this Agreement, in whole or in part, based on any material breach of this Agreement by Buyer that goes uncorrected for ten (10) days following written notice to Buyer. Supplier may also terminate this agreement effective upon delivery of written notice to Buyer in the event of the expiration of termination of that certain Equipment Supply Agreement of even date herewith between Buyer and Supplier. If Supplier terminates this Agreement for any reason, Buyer's sole and exclusive remedy is the recovery of any Raw Materials in the possession of Supplier and delivery of any Product paid for by Buyer.

7.5 Effect of Termination. At the termination or expiration of this Agreement:

(a) Buyer has the option but not the obligation to purchase any remaining Products ordered pursuant to this Agreement at the prices set out in this Agreement.

(b) At Buyer's election, Supplier shall (i) complete or return all work in progress that is the subject of any Purchase Orders placed by Buyer under this Agreement, and (ii) return any inventory of Raw Materials, packaging, and the Products in Supplier's possession.

(c) In the event of termination of the Agreement for cause by Buyer, Supplier shall, at Buyer's election, which shall be made in writing to Supplier at the time of notice of termination is delivered, continue to supply Products to Buyer under the provisions of this Agreement for up to twelve (12) months, until such time as Buyer provides thirty (30) days prior notice to Supplier that Buyer has secured an alternative source.

8. Indemnification; Insurance; Liability.

8 . 1 Indemnification. Supplier shall defend, indemnify and hold harmless Buyer and Buyer's parent company, their subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees, and Buyer's customers (collectively, "Buyer Indemnitees") from and against all third party Claims arising out of or as a result of (i) Supplier's negligence or willful misconduct, (ii) Supplier's breach of any of the terms of this Agreement and any and all consequences of such breach, or (iii) Supplier's failure to comply with any Law, including any Environmental Law. Claims shall include any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense (including reasonable attorney, consultant and professional fees and costs), and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses"). Supplier shall not be obligated under this Section 8.1 for any settlement of any claim entered into by a Buyer Indemnitee without Supplier's prior written consent.

8.2 Buyer Indemnification. Buyer shall defend, indemnify and hold harmless Supplier and Supplier's parent company, their subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees (collectively, "Supplier Indemnitees") from and against all third party Claims arising out of or as a result of (i) Buyer's negligence or willful misconduct, (ii) Buyer's breach of any of the terms of this Agreement and any and all consequences of such breach, or (iii) Buyer's failure to comply with any Law, including any Environmental Law. Buyer shall not be obligated under this section 8.2 for any settlement of any claim entered into by a Supplier Indemnitee without Buyer's prior written consent.

8.3 Insurance. During the Term and for a period of 2 years thereafter, Supplier shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including Product liability) in a sum no less than Five Million US Dollars (\$5,000,000 UDS) with financially sound and reputable insurers. Upon Buyer's request, Supplier shall provide Buyer with a certificate of insurance from Supplier's insurer evidencing the insurance coverage specified in this Agreement. The certificate of insurance shall name Buyer as an additional insured. Supplier shall provide Buyer with thirty (30) days' advance written notice in the event of a cancellation or material change in Supplier's insurance policy. Except where prohibited by law, Supplier shall require its insurer to waive all rights of subrogation against Buyer's insurers and Buyer or the Indemnitees.

8 . 4 Damages Waiver. **EXCEPT FOR DAMAGES ARISING AS A RESULT OF A BREACH OF CONFIDENTIALITY, INTELLECTUAL PROPERTY INFRINGEMENT OR FRAUD, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY INDEMNITEE FOR ANY INDIRECT, CONSEQUENTIAL (INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION AND THE LIKE), EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, THE CONDUCT OF BUSINESS UNDER THIS AGREEMENT, OR BREACH OF THIS AGREEMENT OR ANY PURCHASE ORDER, REGARDLESS OF WHETHER THE CLAIM UNDER WHICH SUCH DAMAGES ARE SOUGHT IS BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, STATUTE, REGULATION OR ANY OTHER LEGAL THEORY OR LAW, EVEN IF THE BREACHING PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

8 . 5 Limitation of Liability. **EXCEPT FOR BUYER'S BREACH OF ITS OBLIGATION TO PAY FOR ANY PRODUCT ACCORDING TO THE TERMS OF THIS AGREEMENT, DAMAGES ARISING AS A RESULT OF A BUYER'S BREACH OF CONFIDENTIALITY, INTELLECTUAL PROPERTY INFRINGEMENT, OR FRAUD, BUYER'S TOTAL AGGREGATE LIABILITY RESULTING FROM ITS PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT, OR FROM ANY CLAIM RELATED IN ANY WAY TO THIS AGREEMENT, SHALL NOT EXCEED THE TOTAL PAYMENTS MADE BY BUYER TO SUPPLIER FOR PRODUCTS UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM.**

9. Compliance.

9 . 1 Compliance with Laws. Supplier shall comply with all Laws, and shall hold and comply with all necessary permits, licenses and other governmental approvals, as applicable or as required to perform each of its obligations under this Agreement. In this Agreement the term "Law" or "Laws" shall mean all local, county, state, and federal/national laws, statutes, rules, ordinances, regulations, bylaws, administrative or judicial orders, and administrative, or judicial consent decrees, including, without limitation, any Law enacted, promulgated, adopted, issued, or entered into, including but not limited, to protect human health and the environment, such as the Resource Conservation and Recovery Act ("RCRA"), the Clean Air Act, the Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Hazardous Materials Transportation Act, and the Occupational Safety and Health Act ("OSHA"), (hereinafter, individually and collectively, any "Environmental Law") or any equivalent law in the applicable jurisdiction.

9.2 Environmental Law. Supplier shall promptly provide:

(a) Buyer with documentation to demonstrate Supplier's compliance with any applicable Law, including any applicable Environmental Law, if requested by Buyer.

(b) Buyer and any agent of Buyer, including but not limited to any environmental consultant hired by Buyer, with reasonable access requested by Buyer to inspect the operations at Supplier's plant to assure Supplier's compliance with any Environmental Law, if requested by Buyer.

(c) Buyer with any of the following documents received by Supplier, along with prompt written notice that Supplier has received such document(s): (i) any notice of violation (a "NOV") issued to Supplier by any governmental agency enforcing or administering Environmental Law (a "Governmental Authority"); (ii) any notice of assessment or potential assessment of a civil or criminal penalty (a "Penalty") against Supplier alleging violation of any Environmental Law; (iii) any notice to Supplier of liability or potential liability under any Environmental Law, including liability under CERCLA; (iv) any execution by Supplier of an administrative or judicial consent decree relating to alleged non-compliance with Environmental Law at Supplier's plant or at any other location; or (v) any notice of revocation, or of the intent to revoke, any permit, license, certification or other documentation held by Supplier tender or related to any Environmental Law.

(d) Buyer with copies of any written notice provided by Supplier, or any of its contractors or subcontractors, to any governmental agency of a release or threat of release to the environment of any substance regulated by Environmental Law at Supplier's plant.

(e) Buyer with evidence that Supplier has satisfied all financial responsibility or financial assurance requirements imposed upon it by any Environmental Law, if requested by Buyer.

9 . 3 Ethics. Supplier shall conduct itself and ensure all subcontractors conduct themselves ethically and implement and uphold Buyer's Ethics Policy (see: www.johnsoncontrols.com).

10. Confidentiality Obligations.

10.1 Obligations of Confidentiality. Each Party (a “Receiving Party”) hereby acknowledges and agrees that any information or data (including, without limitation, any technical information, experience or data) regarding the other Party’s (the “Disclosing Party”) plans, programs, facilities, processes, products, processes, production requirements, specifications, costs, equipment, operations, procedures, instructions, strategies, customers, prospective customers, and forecasts, or any other information or data that is confidential or proprietary or would reasonably be regarded as confidential or proprietary under the circumstances (all of which are herein referred to as “Confidential Information”), of the Disclosing Party shall remain the sole property of the Disclosing Party. The Parties agree that the terms and conditions of this Agreement shall be regarded as Confidential Information. The Receiving Party shall treat the Disclosing Party’s Confidential Information in the same protective manner that it treats its own confidential information, unless greater care is required under the circumstances to ensure its confidentiality. The Receiving Party shall use the Confidential Information only for the purpose of carrying out this Agreement, and shall not disclose the Confidential Information to others or permit its employees, officers, directors, affiliates or agents to use the Confidential Information for any other purpose or to disclose the Confidential Information to others. This paragraph shall not prevent the Receiving Party from using or disclosing to others information:

- (a) which is known to the Receiving Party at the time it is disclosed by or obtained from the Disclosing Party; or
- (b) which is, or through no fault of the Receiving Party becomes, lawfully available to the public; or
- (c) which lawfully becomes available to the Receiving Party from a source other than the Disclosing Party; or
- (d) which the Receiving Party is required by applicable law, a court having jurisdiction, or governmental or regulatory authority to disclose (provided that reasonable prior notice and an opportunity to limit such disclosure is provided to the Disclosing Party).

10.2 Confidentiality Term. A Receiving Party’s confidentiality obligations set out in Section 10.1 for non-trade secret Confidential Information shall continue throughout the Term of this Agreement, and for a period of five (5) years thereafter. A Receiving Party’s confidentiality obligations set out in Section 10.1 for Confidential Information that is also a trade secret shall continue for so long as the information remains a trade secret.

10.3 Disclosure to Affiliates. A Receiving Party may only disclose confidential information to Affiliates on a need to know basis.

10.4 Return of Materials; Controlled Access. Upon termination of this Agreement, if requested, the Receiving Party shall deliver to the Disclosing Party all of the Disclosing Party’s Confidential Information, including all copies (whether electronic, paper or otherwise), and all other Confidential Information which is under the control of the Receiving Party, its representatives or affiliates. The Receiving Party shall restrict access to the Disclosing Party’s Confidential Information to only those employees, officers, directors, agents and affiliates who are absolutely necessary for the performance of the Receiving Party’s duties under this Agreement. The Receiving Party shall be responsible for any breach of this Section 10 by its employees, officers, directors, agents and affiliates.

10.5 Publicity Not Authorized. Neither Party will issue any press release, advertising, publicity or other public statement that refers to the relationship of the Parties or in any way refers to the terms of this Agreement, without the prior written approval of the other Party. This Section 10.5 shall not be interpreted to prohibit disclosures required by applicable law or ordered by a court of competent jurisdiction.

11. General Terms and Conditions.

11.1 Notices. Each Party shall designate an authorized representative for receipt of any notice or requests provided for or permitted under this Agreement (“Authorized Representative”). Any notice or request provided for or permitted under this Agreement shall be in writing and shall be delivered in person or by facsimile, registered or certified mail return receipt requested, express delivery service or other nationally recognized overnight delivery service to the Authorized Representative of the other Party. Notice shall be considered given when received by the Authorized Representative at the address designated below. Either Party, by notice to the other, may change its Authorized Representative and/or address for receiving such notices.

To Buyer: Johnson Controls Battery Group, Inc.
5757 N. Green Bay Avenue
Milwaukee, WI 53209

With a copy to: Johnson Controls Battery Group, Inc.
(for informational purposes only) 5757 N. Green Bay Avenue
Milwaukee, WI 53209

To Supplier: Aqua Metals, Inc.
1010 Atlantic Avenue
Alameda, California 94501

With a copy to: Greenberg Traurig, LLP
3161 Michelson Drive, Suite 1000
Irvine, California 92612

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

11.2 Force Majeure. Neither Party shall be liable to the other for any delay or failure in performing its obligations under this Agreement to the extent that the delay or failure is caused by an event or circumstance beyond the reasonable control of that Party, without such Party's fault or negligence, and which by its nature could not have been foreseen by such Party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, epidemic, war, invasion, hostilities, terrorist acts, riots, embargoes or industrial disturbances. Supplier's economic hardship, changes in market conditions, and strikes or other labor disputes are not considered Force Majeure Events. If a Force Majeure Event occurs, the affected Party may suspend performance under this Agreement by providing prompt written notice to the other Party. Supplier shall use commercially reasonable best efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under this Agreement as quickly as possible. Buyer is entitled to obtain Products from an alternative source during the period of the Force Majeure Event. Supplier shall be responsible for any additional costs incurred by Buyer for securing supply from an alternative source. Supplier shall allocate any reduction in the supply of Products as a result of a Force Majeure Event proportionally across all of its customers.

11.3 Governing Law. The rights and obligations of the Parties to this Agreement and the validity, construction, interpretation and performance of this Agreement and any claims arising under or related to this Agreement, whether in contract or tort, shall be governed by, construed and enforced in accordance with the laws of Delaware without regard to the provisions thereof concerning conflict of laws. The United Nations Convention on Contracts for the International Sales of Goods is expressly excluded from application to this Agreement in any way.

11.4 Dispute Resolution.

(a) The Parties may, but are not obligated to attempt to resolve any dispute informally as follows:

(i) Either Party may initiate the informal dispute resolution process by giving written notice of a dispute ("Dispute Notice") to the other Party. The other Party shall have five (5) business days to respond. The Dispute Notice and the response shall each include: (1) a statement of the Party's position and a summary of arguments supporting that position, and (2) the name and title of the designated representative who will represent that Party in attempting to resolve the dispute.

(ii) Within ten (10) business days of delivery of the Dispute Notice, the Parties' designated representatives will meet (and will continue to meet as often as the Parties choose) to gather and furnish to one another the information necessary and appropriate to resolve the dispute. The designated representatives will discuss the problem and attempt to resolve the dispute without any additional formal proceeding.

(iii) If, within twenty (20) business days of the delivery of the Dispute Notice, the designated representatives are unable to resolve the dispute, either Party may escalate the dispute to the appropriate senior manager(s) within their organization. The senior managers of each Party will then meet (and continue to meet as often as the Parties choose) to attempt in good faith to resolve the dispute.

(iv) All negotiations pursuant to this Section will be confidential and will be treated as compromise and settlement negotiations for purposes of the applicable rules of evidence.

(v) Either Party may end an informal dispute resolution process at any time and for any reason.

(b) If the informal dispute resolution above is not initiated or, if initiated, does not resolve the dispute, either Party may pursue its rights in litigation. In all such cases the Parties agree and consent to the exclusive jurisdiction of the State of Delaware. The losing Party shall be responsible for all costs and expenses of the prevailing Party, including all attorneys' fees, incurred in litigation arising under this Agreement. If the court awards a temporary restraining order, preliminary injunction, or other interim equitable relief to either Party, the Party receiving such relief shall not be required to post a bond (if permitted by law).

(c) The Parties agree that they shall not raise, and hereby waive, any defenses based upon venue, inconvenience of forum or lack of personal jurisdiction in any action or suit brought in accordance with Section 11.4(b).

11.5 Cumulative Remedies. Buyers rights and remedies under this Agreement are cumulative and are in addition to any other rights and remedies available at law, equity or otherwise. Supplier's rights and remedies under this Agreement are subject to all limitations set out in this Agreement.

11.6 No Waiver. The failure to enforce at any time any of the provisions of this Agreement or to require at any time performance by any Party of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or to affect the validity of this Agreement, or any part hereof, or the right of any Party thereafter to enforce each and every such provision in accordance with the terms of this Agreement.

11.7 Assignment & Subcontracts. This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Neither Party may assign or subcontract this Agreement, nor any of its rights, interests or obligations hereunder, without the prior written consent of the other Party. However, either Party may, without the consent of the other Party, assign all of its rights hereunder to any of its parent, wholly-owned subsidiary or other direct or indirect wholly-owned subsidiary of its parent late.

11.8 Independent Contractors. The Parties acknowledge, agree and declare that they are each independent contractors with respect to the other. Nothing contained in this Agreement creates a partnership, joint venture or agency relationship between the Parties. All persons employed by a Party are employees only of that Party and not of the other Party, and the employing Party shall bear all costs and obligations related to the person's employment.

11.9 Third Party Beneficiaries. The provisions of this Agreement are for the sole benefit of the Parties and their successors and permitted assigns, and they shall not be construed as conferring any rights in any other persons.

11.10 Headings. The Section headings included throughout this Agreement are for convenience only and are not intended to affect the meaning or interpretation of this Agreement.

11.11 Acceptance and Signatures in Counterparts. This Agreement shall not be effective unless and until it is signed by all Parties, and cannot be accepted by any other means. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall be deemed to constitute one and the same instrument. An executed signature page of this Agreement delivered by facsimile or email transmission shall be as effective as an original executed signature page.

11.12 Construction. This Agreement has been negotiated and drafted by both Parties, and neither Party shall be considered the drafter or primary drafter of this Agreement. Notwithstanding any rule of construction to the contrary, the Parties agree that this Agreement shall not be interpreted against either Party on the basis that such Party was the drafter or primary drafter of the Agreement.

11.13 Amendment. Except as otherwise provided herein, this Agreement, and the Exhibits attached hereto, may be varied or amended only by the written and signed agreement of the Parties through their Authorized Representatives, specifically referring to this Agreement. No purchase order, bill of sale, packaging slip or other form, whether or not purporting to supersede the terms of this Agreement, shall function to amend or supplement the terms of this Agreement.

11.14 Complete Agreement. This Agreement, together with the Exhibits hereto, and any other documents expressly incorporated by reference herein, constitutes the complete and exclusive statement of the terms of the Agreement between the Parties with respect to the sale of the Products for the Term. No statement or agreements, oral or written, made prior to or at the signing hereof shall vary or modify the written terms hereof, and neither Party shall claim any modification or rescission from any provision hereof unless such modification or rescission is in writing and signed by the Authorized Representative of the other Party. The Parties expressly agree that the terms and conditions set out in any Purchase Order, Purchase Order acceptance, or any other document related to Buyer's purchase of Products, whether issued before or after the Effective Date of this Agreement, are not binding on the Parties and are not valid or enforceable against either Party to this Agreement, unless specifically incorporated by reference herein.

11.15 Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, then to the fullest extent permitted by applicable law such provision will be severed and shall not be considered part of this Agreement. All other provisions of this Agreement shall remain in full force and effect. However, in the event such provision is considered an essential element of this Agreement, the Parties shall promptly negotiate a valid and enforceable replacement for the provision that is consistent with applicable law and achieves, as nearly as possible, the original intention of the Parties. To the fullest extent permitted by applicable law, the Parties waive any provision of law that would render any provision of this Agreement invalid, illegal or unenforceable in any respect.

11.16 Survival. The obligations under this Agreement that by their nature are intended to continue beyond the termination of this Agreement shall survive any such termination. The representations and warranties set forth herein shall survive the execution hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

AQUA METALS, INC.

By: /s/ Dr. Stephen R. Clarke

Name: Dr. Stephen R. Clarke

Title: Chairman and CEO

JOHNSON CONTROLS BATTERY GROUP, INC.

By: /s/ Brian Steif

Name: Brian Steif,

Title: EVP and Chief Financial Officer

EXHIBIT A

TOLLING SERVICES AND PRODUCT PURCHASES

Buyer shall supply certain Raw Materials to supplier and Supplier shall process the Raw Materials into lead, lead alloys and poly chips through its Tolling Services. Buyer shall purchase Products from Supplier which may result from the Tolling Services of Buyer's Raw Materials or through the tolling services of other raw materials Supplier processes at its Facility. All Products shall meet the Specifications identified in Exhibit C. The Tolling Services and Products purchased by Buyer may vary from Region to Region.

Exhibit A-1 identifies and details the Tolling Services and Product purchases in the Region of North America Region (NAFTA countries as of the Effective Date).

Exhibit A-2 identifies and details the Tolling Services and Product purchases in the Region of Europe (European Union countries as of the Effective Date),

Exhibit A-3 identifies and details the Tolling Services and Product purchases in the Region of China.

Exhibit A-1

EXHIBIT A-1

NORTH AMERICA TOLLING SERVICES AND PRODUCT PURCHASES

A. North America Products. Buyer shall purchase the following Products from Supplier, each of which must be manufactured to the required Specifications:

Product	Specifications	Exhibit
***	***	C-1
***	***	C-2
***	***	C-3
***	***	C-4
***	***	C-5

B. Product Price.

- 1) Tolling Fee - Cores. For Corroding or soft lead Battery Grade Product purchased by Buyer from Raw Materials that are cores, the price shall be ***, subject to the *** provisions of Section 5.5 of the Agreement.
- 2) Tolling Fee - Plant Scrap. For Corroding or soft lead Battery Grade Product purchased by Buyer from Raw Materials other than cores, the price set shall be ***, subject to the *** provisions of Section 5.5 of the Agreement.
- 3) Poly Chips from Tolling Services. Poly Chips from the Tolling Services shall be returned at *** per MT of lead. Buyer may also purchase additional Poly Chips at a mutually agreed upon price.
- 4) Products from non-Tolling Services. The price paid by Buyer per metric ton of Corroding or soft lead Battery Grade Product shall be *** or equivalent price for lead. For example, ***.
- 5) Lead Alloys from Tolling Services or non-Tolling Services. To the extent any of the Product, whether from Tolling Services or otherwise, is in alloyed form (e.g., lead containing antimony, calcium, selenium, tin, etc.), the following additional fees shall apply:
 - a) ***.
 - b) ***.
 - c) ***.
 - d) ***.
 - e) ***.

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

C. Volume.

1. Lead. Unless Buyer timely elects not to purchase some or all of the Covered Lead as set forth, below, Buyer will purchase and Supplier will sell 100% of all Covered Lead (as defined below) from Supplier's Facility that Supplier produces above the tolling output from the Raw Materials as set forth in this Agreement. The term "Covered Lead" means all lead produced by Supplier for "automotive+ applications", and excluding industrial storage and forklift battery applications. The term "automotive+ applications" means all battery applications for the automotive or vehicular transportation industry, to include cars, trucks, buses, marine, golf carts, etc., subject to the above-referenced exclusions. If for any reason Buyer does not purchase the Covered Lead, Supplier shall be free to sell that Covered Lead on the open market. Buyer must notify Supplier of its intent not to purchase the full amount of the Covered Lead at least 6 months in advance of the scheduled production date in order to allow Supplier adequate time to find an alternate outlet for the lead sales. If Buyer does not purchase the Covered Lead it is obligated to purchase, and Seller has to find an alternative buyer for the Covered Lead, then Buyer shall pay for the difference in the sale price of that Covered Lead and Buyer's price if the sale price was lower than Buyer's price. All of Buyer's obligations to purchase Covered Lead are contingent on the lead meeting quality and specifications set forth in Exhibit C.

2. Annual Raw Materials Tolling. Buyer will supply Supplier with Raw Materials to support the equivalent minimum of *** metric tons of lead purchases annually pursuant to the Tolling Services and Supplier shall prioritize its resources and manufacturing capacity at its Facility to ensure that it provides Tolling Services to Buyer for the minimum *** metric tons of lead purchases annually on a priority basis over Tolling Services for any other raw materials it receives. Supplier shall have no obligation to process under its Tolling Services excess of Raw Materials to support the equivalent minimum of *** metric tons of lead purchases annually except as Supplier may agree to increases in such amount as provided below. The parties shall confer and take commercially reasonable efforts to mutually agree on or before September 30 of each year during the Term to finalize incremental annual and monthly increases in Raw Materials volumes for the following year (i.e., above *** metric tons of lead purchases annually). All volume commitments relating to the supply of Raw Materials are contingent on the lead meeting quality and specifications required by Buyer and set forth in Exhibit C.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

3. Monthly Raw Materials Supply to Seller from Buyer. Buyer will send to Supplier for Tolling Services 1/12 of the annual tonnage initially set at *** MT of Lead +1- 15% monthly during the term of the Agreement and Supplier will provide Tolling Services to said amounts.

[SIGNATURE PAGE FOLLOWS]

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

IN WITNESS WHEREOF, the Parties have executed this Exhibit A-1 as of this 7th day of February 2017.

AQUA METALS, INC.

By: _____
Name: Dr. Stephen R. Clarke
Title: Chairman and CEO

JOHNSON CONTROLS BATTERY GROUP, INC.

By: _____
Name: _____
Title: _____

EXHIBIT A-2

EUROPE TOLLING SERVICES AND PRODUCT PURCHASES

Reserved — to be completed by mutual agreement of the Parties at a later date.

IN WITNESS WHEREOF, the Parties have executed this Exhibit A-2 as of [Date].

AQUA METALS, INC.

By: _____
Name: _____
Title: _____

[JCI Affiliate]

By: _____
Name: _____
Title: _____

EXHIBIT A-3

CHINA TOLLING SERVICES AND PRODUCT PURCHASES

Reserved — to be completed by mutual agreement of the Parties at a later date.

IN WITNESS WHEREOF, the Parties have executed this Exhibit A-3 as of [Date].

AQUA METALS, INC.

By: _____
Name: _____
Title: _____

[JCI Affiliate]

By: _____
Name: _____
Title: _____

EXHIBIT B

BUYER'S MATERIALS

1 . Raw Materials. On a consignment basis, Buyer will deliver to Supplier those certain raw materials listed and further described on Schedule B1 necessary for the production of tolled Products (the "Raw Materials"). If Buyer is unable to deliver the Raw Materials necessary for Supplier to produce tolled Products under this Agreement, Supplier shall continue to supply Products to Buyer, and Buyer shall replenish Supplier's stock of Raw Materials within thirty (30) days.

2 . Recovery and Assay. The Parties agree that the returnable quantity of tolled Products to Buyer from Raw Materials through the Tolling Services of Supplier shall be at the agreed upon assay as per SCHEDULE B1.

3. Title. Title to Raw Materials, work in progress, and tolled Products shall remain in Buyer. Supplier acknowledges Buyer's title to the Raw Materials, work in process, tolled Products and poly chips. Supplier agrees to protect Raw Materials, work in process, tolled Product and poly chips and keep them free from pledge, hypothecation, assignment or transfer to third parties without Buyer's written consent. Supplier will not take any action which will subject the Raw Materials, work in process or tolled Products to a claim of a third party. Supplier hereby grants Buyer a security interest in the Raw Materials. If requested by Buyer, Supplier agrees to execute a Security Agreement in a form acceptable to Buyer.

4. Risk of Loss. Supplier assumes full responsibility and risk for any loss or damage to the Raw Materials, work in progress and tolled Products while the same are in the possession of Supplier. Supplier agrees that Raw Materials delivered to Supplier's Facility will be used solely and exclusively for the purpose of Buyer's tolled Products and will not be used for any other purpose or customers of Supplier. If Raw Materials are used by Supplier for purposes other than supplying tolled Products to Buyer, without Buyer's prior written authorization, or Raw Materials are lost or destroyed prior to processing, Supplier will replace such Raw Materials or reimburse Buyer for the full value of the lead in the Raw Materials ("Value") based upon the prior month's Metal Bulletin ("MB") or equivalent price for lead plus the high range of the monthly premium published by Metals Bulletin for the region or Buyer's actual cost of purchase an equivalent amount of Product, whichever is greater.

5 . Inventory and Records. Supplier shall weigh, issue a receipt to Buyer for, and physically segregate all Raw Materials, work in process and tolled Products from all other products stored at Supplier's premises. Supplier shall further keep account and records of the quantities and inventories of tolled Products, work in process and Raw Materials on hand. Supplier shall furnish Buyer with weekly inventory statements (in a mutually agreed format) which shall include a count of all Products on hand and an account of the tolled Products produced and shipped since the immediately preceding report. Supplier shall also answer normal requests from Buyer relating to inventory and manufacturing schedules. Subject to Buyer's right to audit in this Agreement, Supplier will maintain adequate books and records thereof, including any records which may be required under the local, state and federal rules, statutes, laws, ordinances and regulations.

6 . Delivery. Unless otherwise agreed to by Buyer and Supplier in writing, delivery of Raw Materials to the Supplier's Facility shall be made during the same four (4) hour window, between 7:00 am and 7:00 pm, local time, Monday through Friday and excluding all federal holidays (each such day, a "Business Day"). If Buyer completes a delivery on a day other than a Business Day or outside the stated four (4) hour window pursuant to an agreement between Buyer and Supplier, in addition to the applicable purchase price, Buyer shall incur and pay all additional and incremental costs incurred by Supplier associated with such delivery, which costs shall be included in the relevant invoice. All shipments of Raw Material shall be f.o.b. the Supplier's Facility, at which point the risk of loss for such Raw Materials will pass to the Supplier Upon delivery to Supplier's Facility, Supplier shall use its commercially reasonable best efforts to promptly unload the Raw Materials. In the event Supplier delays the unloading beyond two (2) hours, Buyer will charge Supplier any late fee that is charged by the freight carrier. Empty trailers/containers should be used for the delivery of tolled Products. Supplier shall also return all pallets used to deliver Raw Materials when shipping tolled Products to Buyer. Supplier shall pay the cost of replacing any pallets that it fails to return, and any pallets returned in a damaged or otherwise unusable condition.

7 . No Transfer Off-Site. Supplier agrees that none of the Raw Materials, including the metal and metalloid content, poly scrap, indigenous material, in process material and finished Products and poly chips delivered by or for Buyer to Supplier's Facility will be transferred to any location outside of Supplier's Facility to a third-party or otherwise for any treatment, storage, disposal, processing or for any other reason without Buyer's prior written consent. If any Raw Materials, including its metal and metalloid content, poly scrap, indigenous material, in process material and tolled Product and poly chips, or if any wastes generated from the use, management or storage of Raw Materials, are transferred outside Supplier's plant in violation of this Agreement, Supplier shall indemnify and defend Buyer from and against any and all claims arising against Buyer and/or any Indemnitees, as set forth in Section 8.1 of the Agreement.

8. Management of Raw Materials and Wastes.

(a) Supplier shall carefully manage all Raw Materials while in Supplier's possession, including all wastes resulting from the use, management or storage of Raw materials, in a manner that prevents the release of any Raw Materials to the environment. In the event of any such release of Raw Materials in Supplier's possession into the environment, Supplier shall be solely responsible for immediately responding to such release, providing any notifications required to governmental agencies, and conducting such remedial actions as are necessary to eliminate the impacts of such release on the environment. Supplier shall provide prompt notice to Buyer of any release incident that requires notification to a governmental agency. If any such release of Raw Materials occurs, Supplier shall indemnify and defend Buyer from and against any and all claims arising therefrom against Buyer and/or any Indemnitees, as set forth in Section 8.1 of the Agreement.

(b) Supplier shall minimize the generation of any wastes arising from the use, management or storage of Raw Materials. No wastes generated from the use, management or storage of Raw Materials will be transferred to any location outside of Supplier's Facility to a third-party or otherwise for any treatment, storage, disposal, processing or for any other reason without Buyer's prior written consent. If any wastes generated from the use, management or storage of Raw Materials are transferred outside Supplier's plant in violation of this Agreement, Supplier shall indemnify and defend Buyer from and against any and all claims arising therefrom against Buyer and/or any Indemnitees, as set forth in Section 8.1 of the Agreement.

9. Effect of Termination. Upon the expiration or termination of this Agreement for any reason, at Buyer's election:

(a) Supplier shall process the remaining Raw Materials in its inventory and ship in the form of tolled Product at the price set out in Exhibit A, or

(b) If Supplier is unable to process the Raw Materials remaining in its inventory on account of Buyer due to Bankruptcy, a Force Majeure Event or any other reason, Supplier will make arrangements to properly package all remaining Buyer Raw Materials inventory and allow Buyer to pick up such inventory from Supplier, or

(c) To the extent that Supplier is unable to return or process the Raw Materials remaining in its inventory, Supplier shall reimburse Buyer for the full value of the Raw Materials based on LME Settlement for the month plus any premium that Buyer paid to obtain the Raw Materials.

SCHEDULE B1

Raw Materials/Recovery and Assay

RAW MATERIALS AND RECOVERY:

Lead Bearing Material	Yield
Cores	
1) Automotive Cores wet	***
2) Industrial Cores wet	***
3) Dry Automotive Batteries with Covers	***
4) Dry Automotive Batteries without Covers	***
Plants Scrap	***
1) Casting Dross - Calcium	***
2) Casting Dross - W45 — ASTP	***
3) Casting Dross - Pure Lead	***
4) Casting Dross - Mixed Alloy	***
5) Casting Dross - GU3	***
6) Lead Oxide	***
7) Paste Scrap	***
8) Grids	***
9) Plates	***
10) Dust (Baghouse & Radco)	***
11) Bushings	***
12) Jumper Cables	***

BUYER'S PALLETS: Supplier agrees to return all the pallets on which Raw Material was shipped by the Buyer to Buyer's designated carrier or authorized recycler. Supplier shall make best efforts to minimize any damage to the pallets at its Facility.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

EXHIBIT C

PRODUCT SPECIFICATIONS

Product	Specifications	Exhibit
***	JCBGI MATERIAL SPECIFICATION ***	C-1
***	JCBGI MATERIAL SPECIFICATION ***	C-2
***	JCBGI MATERIAL SPECIFICATION ***	C-3
***	JCI MATERIAL SPECIFICATION ***	C-4
***	JCI MATERIAL SPECIFICATION ***	C-5

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

JCBGI MATERIAL SPECIFICATION

Date approved: ***

Date superseded: New

1. Material

2. Definition

Johnson Controls Battery Group Inc. (JCBGI) includes all affiliated entities,

3. Responsibility

The responsibility of maintaining and updating the material specifications is JCBGI which is headquartered in Milwaukee, Wisconsin, Glendale facility, USA.

4. Application or Use

5. Specification Limits

Note: This symbol (●) or (◇) or (□) on this Material Specification or applicable drawing denote a characteristic that must be on the Control Plan and capability data available for review by the XI Supplier Quality.

5.1 Chemical composition (% by weight)

5.1.1 Approved Supplier Lot Certification.

<u>Element</u>	<u>Max. % Wt.</u>	<u>Max. ppm</u>
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

5.1.2 To qualify the materials must meet the following material requirements for chemical composition, plus 5.1.1 elements

<u>Element</u>	<u>Max. % Wt.</u>	<u>Max. ppm</u>
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***

6. Supplier Responsibilities

6.1 Quality Requirements

6.1.1 Certificate of Analysis (COA) - Each shipment shall include a COA all of the elements listed in section 5.1.1. Actual test values must be in compliance with the stated specification limits. A copy of each COA shall be emailed to: ps-supplier-quality@jci.com

6.2 New Supplier/Process Qualification

6.2.1 All new suppliers or new processes to be introduced by existing suppliers must be qualified before any material can be shipped to a manufacturing plant for use in production product. Such qualification must be approved by the applicable JCBGI change approval authority.

6.3 Sample Submission

6.3.1 In order to verify the lead manufacturers continuing compliance as an approved vendor, it is the responsibility of the Supplier to:

6.3.1.1 Select a random sample representing one lot from each month's production for JCBGI. Submit this sample monthly to: JCBGI ASS Lab, Ave. Eugenio Garza Sada 3431 Sur, Col Arrollo Seco, Monterrey, N.L. Mex 64740.

6.3.1.1.1 This sample should be identified as "Monthly Sample" indicating date of production, lot number and supplier's contact information. The analysis of this sample shall be per table 5.1.1 and 5.1.2.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

6.3.2 For vendors outside the Americas, it is acceptable to submit this monthly sample to a regional / local JCI approved laboratory. The results shall be kept in a log file and submitted to JCBGI: ps-supplier-quality@jci.com

6.4 Retention Samples

6.4.1 The supplier must maintain a test sample representing each lot of lead produced for JCBGI for a period of three months.

7. Shipping Instructions

7.1 Shipping to meet International Transportation Guidelines, Customs and Regulations .

7.1.1 Strapping method. The ingots are stacked in a pile/bundle/pig and tied together with belts (plastic if possible), on both sides of the bundle.

7.1.2 All shipments must be secured to prevent damage during transportation as applicable per local requirements.

7.2 Material Identification

7.2.1 Each block or bundle will be identified with the supplier’s lot number.

7.2.2 Each block or bundle will be painted with a clearly visible “PINK” stripe, or a “PINK” identification marking, unless approved in writing by JCBGI.

7.3 General Requirements

7.3.1 Lead processability and cleanliness will be a factor in the final determination of material acceptance. Special storage conditions could be required to meet with this condition In vendor locations with severe/extreme weather or contamination can occur.

8. Document Change Summary

<u>Revision Date</u>	<u>Section</u>	<u>Change Order</u>	<u>Description</u>
***	***	***	***

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

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JCBGI MATERIAL SPECIFICATION

Date effective: ***

Date approved: ***

Date superseded: ***

1. Material

2. Definition

Johnson Controls Battery Group Inc. (JCBGI) includes all affiliated entities.

3. Responsibility

The responsibility of maintaining and updating the material specifications is JCBGI which is headquartered in Milwaukee Wisconsin, Glendale facility, USA.

4. Application or Use

5. Specification Limits

Note: This symbol (K) or (●) or (◇) on this Material Specification denotes a characteristic that must be on the Control Plan and capability reported to SQM on a quarterly basis.

5.1 Chemical composition (% by weight)

5.1.1 Approved Supplier Lot Certification. Supplier must target specified nominal values as demonstrated by statistics.

<u>Element (K)</u>	<u>% Spec. Limits (ppm)</u>
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

5.1.2 To qualify the materials must meet the following material requirements for chemical composition

<u>Element</u>	<u>Of Spec. Limits (ppm)</u>
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***

6. Supplier Responsibilities

6.1 Sample Submission

6.1.1 The Battery Supplier Quality group will request a test sample quarterly to verify the Supplier’s continuing compliance as an approved supplier. To support this re-qualification procedure the Supplier must maintain a test sample of approximately 600 grams representing each lot of lead produced for JCBGI for a period of three months. Specific instructions on how and when to submit the samples will be provided with the sample request. No routine submission of samples is required unless specifically requested by Johnson Controls, Inc., Purchasing or Quality.

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

6.2 Quality Requirements

- 6.2.1 Quality Assurance of all material delivered to JCBGI is the responsibility of the supplier. The supplier must have a quality control program adapted to their manufacturing process and capable of ensuring that delivered materials consistently meet the specification requirements of JCBGI. The approach taken in the program shall follow the guidelines contained in the JCBGI Quality Operating Procedure, QOP-06-01.
- 6.2.2 Delivery - Suppliers shall meet 100% on-time delivery performance. The standard shall be based upon mutually agreed upon delivery established by the supplier and JCBGI.
- 6.2.3 Nonconforming materials - The supplier must immediately advise Johnson Controls Purchasing Department in the event of a non-conformance condition. Action may be taken by Johnson Controls Purchasing Department to authorize shipment under a temporary written deviation. Failure to obtain an approved written deviation of nonconforming material shipped to a Johnson Controls facility shall result in the supplier being removed from the Approved Supplier List.
- 6.2.4 Certificate of Compliance - The supplier shall submit a Product Certification of Compliance with each shipment. The certificate may be sent directly to the Quality Manager of the receiving Johnson Controls plant or enclosed with shipment. It shall state the material shipped is in compliance with the material specification and shall be signed by the responsible supplier representative. It shall include actual test data as applicable.

6.3 Material Characteristics or Formulation Changes

- 6.3.1 Any formulation or process change that changes the operating or functional characteristics of the suppliers product must be preceded by written notification to JCBGI-SLI, Purchasing. This notification must be made at least 60 days, and preferably 90 days in advance of the proposed shipping date. Any exceptions to notification dates must be approved by JCBGI. Notification must be accompanied by a representative sample(s) for testing and analysis. Approval to run rests on test results. Failure of supplier to comply with the above procedure may result in either temporary or permanent removal from the Approved Supplier List.
- 6.3.2 Product Verification - JCBGI retains the right to verify purchased product at the Supplier's facility to ensure specification compliance.

Customers of Johnson Controls may verify purchased product at the Supplier's facility to ensure that purchased product is manufactured to specification.

In addition, any attributes of the material not specifically covered in this specification that shall render it nonfunctional in Johnson Controls Battery Groups' processing will be cause for rejection. The ultimate disposition of the material in question will be processed per Johnson Controls Battery Groups' existing SNR procedure.

- 6.3.3 The supplier shall maintain an up to date copy of a Material Safety Data Sheet (MSDS sheet) for the materials that are supplied under this JCI material specification.

6.3.4 The supplier should be capable of showing evidence of continuing control through the use of recognized statistical process control techniques and submit evidence to JCBGI Quality Assurance on a quarterly basis.

6.4 New Supplier/Process Qualification

6.4.1 All new suppliers or new processes to be introduced by existing suppliers must be qualified before any material can be shipped to a manufacturing plant for use in production product. Such qualification must be covered by a Specification Change Order (SCO) with the approval of Manufacturing, Engineering and Quality Assurance.

7. Shipping Instructions

7.1 Shipping to meet International Transportation Guidelines, Customs and Regulations.

7.1.1 Strapping method. The Ingots are stacked in a pile/bundle/pig and tied together with plastic belts (if possible), on both sides of the bundle.

7.2 Material Identification

7.2.1 Each ingot (hog/pig) will be Identified as lead type “CSC”.

7.2.2 Each block or bundle will be identified with the suppliers lot number.

7.2.3 Each block or bundle will be painted with a clearly visible “Red/White” stripes.

7.2.4 Each shipment will be accompanied by two copies of the 3CI Lead Certification form with all required information completed (see Appendix A). Actual test values must be in compliance with the stated specification limits. The form must be signed by the Supplier’s representative. Shipments received without a properly completed certification form will be rejected. After receipt of the lead the 3a plant will send one copy of the certification form to Milwaukee Supplier Quality.

7.3 General Requirements

7.3.1 Lead processability and cleanliness will be a factor in the final determination of material acceptance,

8. Document Change Summary

Revision Date	Section	Change Order	Description
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***

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APPENDIX A

LEAD CERTIFICATION FORM

Supplier Name _____ Location _____

Lead Type: *** *** Date: ***

Supplier Lot No: _____ Date Poured: _____

MATERIAL REQUIREMENTS:

Element (K)	% Spec. Limits (ppm)	ACTUAL VALUE
***	***	
***	***	
***	***	
***	***	
***	***	
***	***	
***	***	
***	***	

I certify that the above values are correct and that this material is in compliance with the referenced Johnson Controls, Inc. Material Specification.

Signed _____ Title _____

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

JCBGI MATERIAL SPECIFICATION

Date approved: ***

Date superseded: ***

1. Material

2. Definition

Johnson Controls Battery Group Inc. (JCBGI) includes all affiliated entities

3. Responsibility

The responsibility of maintaining and updating the material specifications is JCBGI which is headquartered in Milwaukee, Wisconsin, Glendale facility, USA.

4. Application or Use

5. Specification Limits

Note: This symbol (●) or (◇) or (□) on this Material Specification and/or applicable drawing, denotes a characteristic that must be on the Control Plan and available for review by the JCBGI Supplier Quality.

5.1 Chemical composition (% by weight and ppm)

5.1.1 Supplier must target specified nominal values as demonstrated by statistics

<u>Element</u>	<u>Approved Supplier Lot Certification</u>
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

5.1.2 To qualify the materials must meet the following material requirements for chemical composition plus elements in Section 5.1.1

<u>Element</u>	<u>Specification Limits</u>
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***

6. Supplier Responsibilities

6.1 Quality Requirements

6.1.1 Certificate of Analysis (COA) - The Supplier shall submit a Product Certification of Analysis with each shipment and it shall include all elements listed in Section 5.1.1. The certificate may be sent directly to the Quality Manager of the receiving JCBGI Plant or enclosed with shipment, and a copy e-mailed to **PS-Supplier-Quality@jci.com**

6.2 New Supplier/Process Qualification

6.2.1 All new Suppliers or new processes to be introduced by existing Suppliers must be qualified before any material can be shipped to a manufacturing plant for use in production product. Such qualification must be approved by the applicable JCBGI change approval authority.

6.2.2 In order to verify the Supplier’s continuing compliance as an approved vendor, it is the responsibility of the Supplier to:

6.2.2.1 Select a random sample representing one lot from each month’s production for JCBGI. Submit this sample monthly to: JCI ASD Lab, Av. Eugenio Garza Sada 3431 Sur, Col Arrollo Seco, Monterrey, N.L. Mex. 64740

6.2.2.2 This sample should be identified as “Monthly Sample” indicating date of production, lot number and supplier’s contact information.

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6.2.3 For Vendors outside the Americas, it is acceptable to submit this monthly sample to a regional / local JCBGI approved laboratory. The results shall be kept In a log file and submitted to **PS-Supplier-Quality@jci.com**

6.2.3.1 This sample should be identified as “Monthly Sample” Indicating date of production, lot number and Supplier’s contact information. The analysis of this sample shall be per tables 5.1.1 and 5.1.2

6.3 Retention Samples

6.3.1 The Supplier must maintain a test sample representing each lot of lead produced for JCBGI for a period of three months.

7. Shipping Instructions

7.1 Shipping to meet International Transportation Guidelines, Customs and Regulations.

7.2 Strapping method. The ingots/pigs are stacked in a pile/bundle and tied together with plastic belts (if possible), on both sides of the bundle.

7.3 Material Identification

7.3.1 Each ingot will be identified as lead type “**P3**”

7.3.2 Each block or bundle will be identified with the Supplier’s lot number

7.3.3 Each block or bundle will be painted with a clearly visible “**Black and White Stripes**” stripes.

7.3.4 Paint striping identification will be across the top of the lead hogs.

7.4 General Requirements

7.4.1 Lead processability and cleanliness will be a factor in the final determination of material acceptance.

8. Document Change Summary

Revision Date	Section	Change Order	Description
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***

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JCI MATERIAL SPECIFICATION

Date effective: ***

Date approved: ***

Date superseded: ***

1. Material

2. Definition

Johnson Controls Inc. (JCI) includes all affiliated entities

3. Responsibility

The responsibility of maintaining and updating the material specifications is JCI which is headquartered in Milwaukee, Wisconsin, Glendale facility, USA.

4. Application or Use

5. Specification Limits

Note: This symbol (●) or (◇) on this Material Specification and/or applicable drawing, denotes a characteristic that must be on the Control Plan and available for review by the JO Supplier Quality.

5.1 Chemical composition (% by weight)

5.1.1 Supplier must target specified nominal values as demonstrated by statistics

<u>Element</u>	<u>Approved Supplier Lot Certification</u>
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

5.1.2 To qualify the materials must meet the following material requirements for chemical composition plus 5.1.1 requirements

Element	Specification Limits
***	***
***	***
***	***
***	***

6. Supplier Responsibilities

6.1 Quality Requirements

6.1.1 Certificate of Analysis (COA) - Each shipment shall include a CDA all of the elements listed in section 5.1.1. Actual test values must be in compliance with the stated specification limits. A copy of each COA shall be emailed to:
PS-Supplier-Quality@jci.com

6.2 New Supplier/Process Qualification

6.2.1 All new Suppliers or new processes to be introduced by existing Suppliers must be qualified before any material can be shipped to a manufacturing plant for use in production product. Such qualification must be approved by the applicable JCI change approval authority.

6.3 Sample Submission

6.3.1 In order to verify the Supplier’s continuing compliance as an approved Vendor, it is the responsibility of the Supplier to:

6.3.1.1 Select a random sample representing one lot from each month’s production for JCBGI. Submit this sample monthly to: JCBGI ASD Lab, Ave. Eugenio Garza Sada 3431 Sur, Col Arrollo Seco, Monterrey, N.L. Mex 64740.

6.3.1.2 For vendors outside the Americas, it is acceptable to submit this monthly sample to a regional / local JO approved laboratory. The results shall be kept in a log file and submitted to JCI: **PS-Supplier-Quality@jci.com**

6.3.1.3 This sample should be identified as “Monthly Sample” indicating date of production, lot number and supplier’s contact information. The analysis of this sample shall be per tables 5.1.1 and 5.1.2

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

6.4 Retention Samples

6.4.1 The supplier must maintain a test sample representing each lot of lead produced for XI for a period of three months.

7. Shipping Instructions

7.1 Shipping to meet International Transportation Guidelines, Customs and Regulations.

7.1.1 Strapping method. The ingots/pigs are stacked in a pile/bundle and tied together with plastic belts (if possible), on both sides of the bundle.

7.2 Material Identification

7.2.1 Each ingot will be identified as lead type “Pb-3Se”

7.2.2 Each block or bundle will be identified with the supplier’s lot number

7.2.3 Each block or bundle will be painted with a clearly visible “Bright or Neon Blue” stripes

7.3 General Requirements

7.3.1 Lead processability and cleanliness will be a factor in the final determination of material acceptance.

8. Document Change Summary

<u>Revision Date</u>	<u>Section</u>	<u>Change Order</u>	<u>Description</u>
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***

PROPRIETARY AND CONFIDENTIAL

PROPERTY OF JCBGI

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JCI MATERIAL SPECIFICATION

Date approved: ***

Date superseded: ***

1. Material

2. Definition

Johnson Controls Battery Group Inc, (JCI) includes all affiliated entities

3. Responsibility

The responsibility of maintaining and updating the material specifications is JCI which is headquartered in Milwaukee, Wisconsin, Glendale facility, USA,

4. Application or Use

5. Specification Limits

Note: This symbol (●) or (◇) or (□) on this Material Specification and/or applicable drawing, denotes a characteristic that must be on the Control Plan and available for review by the XI Supplier Quality.

5.1 Chemical composition (% by weight and ppm)

5.1.1 Supplier must target specified nominal values as demonstrated by statistics

<u>Element</u>	<u>Approved Supplier Lot Certification</u>
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

5.1.2 To qualify the materials must meet the following material requirements for chemical composition plus elements in Section 5.1.1

<u>Element</u>	<u>Specification Limits</u>
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***

6. Supplier Responsibilities

6.1 Quality Requirements

6.1.1 Certificate of Analysis (COA) - The Supplier shall submit a Product Certification of Analysis with each shipment and it shall include all elements listed in Section 5.1.1. The certificate may be sent directly to the Quality Manager of the receiving JCI Plant or enclosed with shipment, and a copy e-mailed to **PS-Supplier-Quality@jci.com**

6.2 New Supplier/Process Qualification

6.2.1 All new Suppliers or new processes to be introduced by existing Suppliers must be qualified before any material can be shipped to a manufacturing plant for use in production product. Such qualification must be approved by the applicable JCL change approval authority.

6.2.2 In order to verify the Supplier’s continuing compliance as an approved vendor, it is the responsibility of the Supplier to:

6.2.2.1 Select a random sample representing one lot from each month’s production for JCI. Submit this sample monthly to: ASD Global Lab. Johnson Controls, Ave. del Parque No. 2155 Monterrey Technology Park. Cienega de Flores, Mex CP 65550. This sample should be identified as “Monthly Sample” indicating date of production, lot number and supplier’s contact information.

6.2.3 For Vendors outside the Americas, it is acceptable to submit this monthly sample to a regional / local JCI approved laboratory. The results shall be kept in a log file and submitted to **PS-Supplier-Quality@jci.com**

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

6.2.3.1 This sample should be identified as “Monthly Sample” indicating date of production, lot number and Supplier’s contact information. The analysis of this sample shall be per tables 5.1.1 and 5.1.2

6.3 Retention Samples

6.3.1 The Supplier must maintain a test sample representing each lot of lead produced for JCI for a period of three months.

7. Shipping Instructions

7.1 Shipping to meet International Transportation Guidelines, Customs and Regulations.

7.2 **Strapping method.** The ingots/pigs are stacked in a pile/bundle and tied together with plastic belts (if possible), on both sides of the bundle.

7.3 Material Identification

7.3.1 Each ingot will be identified as lead type “P7”

7.3.2 Each block or bundle will be Identified with the Supplier’s lot number

7.3.3 Each block or bundle will be painted with a clearly visible “Green and White”.

7.3.4 Paint striping identification will be across the top of the lead **blocks and bundles**.

7.4 General Requirements

7.4.1 Lead process ability and cleanliness will be a factor in the final determination of material acceptance.

8. Document Change Summary

<u>Draft Revision Date</u>	<u>Section</u>	<u>Change Order</u>	<u>Description</u>
***	***	***	***
***	***	***	***

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EQUIPMENT SUPPLY AGREEMENT

THIS EQUIPMENT SUPPLY AGREEMENT (this “**Agreement**”) is made and entered into this 7th day of February, 2017 (the “**Effective Date**”) by and between **JOHNSON CONTROLS BATTERY GROUP, INC.**, a Wisconsin corporation (“**Customer**”), and **AQUA METALS, INC.**, a Delaware corporation (“**Supplier**”). Customer and Supplier will be referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, Supplier is the developer and owner of AquaRefining;

WHEREAS, Customer has various recycling facilities that recycle lead bearing materials that use a traditional heat-smelting process, and is interested in the possibility of converting or retrofitting such facilities so that they can use AquaRefining and/or constructing additional recycling facilities capable of using AquaRefining in the production of lead; and

WHEREAS, the Parties desire to collaborate, pursuant to the terms and conditions hereof, with respect to the development of new Customer facilities, or the retrofitting or conversion of existing Customer facilities, so that they can produce lead using AquaRefining, pursuant to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and obligations contained herein, the Parties agree as follows:

ARTICLE I
DEFINITIONS

1.1 “**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “**control**” (including the terms “**controlled by**” and “**under common control with**”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

1.2 “**AquaRefining**” means a water-based, room temperature process that produces lead recovered from lead acid batteries, which process is applied after lead paste is produced through the lead acid battery breaking process but prior to the lead refining process, and related equipment, systems and algorithms, that, without limitation, incorporates or relates to the AquaRefining Equipment and AquaRefining Technology.

1.3 “**AquaRefining Equipment**” means the equipment made part of and used in AquaRefining.

1.4 “**AquaRefining Technology**” means all Intellectual Property Rights and Know-How relating to AquaRefining in which Supplier possesses any right, title or interest as of the Effective Date and/or during the Term of this Agreement, or that Supplier otherwise provides or discloses to Customer.

1.5 “**Authorized Representative**” is defined in Section 8.1.

1.6 “**Claim**” means any claim, action, suit, demand or other legal assertion or proceeding brought by a third party.

1.7 “**Confidential Information**” shall mean any and all information and materials previously, currently or subsequently disclosed by one Party (“**Discloser**”) to the other Party (“**Recipient**”) (whether in writing or in oral, graphic, electronic or any other form, and including all Know-How) or otherwise made available to the Recipient which the Discloser considers to be and treats as proprietary or confidential and regardless of whether such information or materials are marked “confidential”. Subject to the following sentence, Supplier’s Confidential Information shall include Know-How only to the extent that is identified to Customer by Supplier in writing as Know-How hereunder. Information or materials shall not be considered Confidential Information to the extent such information or materials can be shown to have been: (a) available to the public prior to the date of disclosure to Recipient or to have become available to the public thereafter without any unauthorized act or omission by Recipient, (b) rightfully in Recipient’s possession prior to the date of disclosure to Recipient and not otherwise restricted as to disclosure for the benefit of Discloser, (c) disclosed to Recipient without restriction by a third party who had a right to disclose and was not otherwise under an obligation of confidence to Discloser, or (d) which by contemporaneous written evidence can be shown to have been independently developed by Recipient without use of or reference to Discloser’s Confidential Information.

1.8 “**Customer**” is defined in the Preamble.

1.9 “**Customer Improvement**” is defined in Section 4.2.

1.10 “**Customer Indemnified Parties**” is defined in Section 4.3.

1.11 “**Customer Facilities Plan**” is defined in Section 3.4.

1.12 “**Development Program**” is defined in Section 2.1.

1.13 “**Development Program Agreement**” is defined in Section 2.2.

1.14 “**Discloser**” is defined in Section 1.7.

1.15 “**Effective Date**” is defined in the Preamble.

1.16 “**First Customer Facility**” is defined in Section 3.3.

1.17 “**Governmental Authority**” means any (a) nation, state, county, city, town, village, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including, without limitation, any governmental agency, branch, department, official or entity and any court or other tribunal); or (d) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature.

1.18 **“Improvement(s)”** means any extensions, enhancements, derivative works (as defined in 17 U.S.C. § 101), improvements, or further developments to the AquaRefining Technology, whether conceived or developed solely by or on behalf of Customer or Supplier, or jointly by Customer and Supplier, in the performance of the relationship contemplated hereunder.

1.19 **“Intellectual Property Rights”** means all current and future worldwide rights comprising or relating to: (a) Patents; (b) Trademarks; (c) internet domain names, whether or not constituting Trademarks, registered by any authorized private registrar or Governmental Authority, web addresses, web pages, websites and URLs; (d) works of authorship, expressions, designs and design registrations, whether or not copyrightable, including, without limitation, copyrights, copyrightable works, software, firmware, data, data files, databases and other specifications and documentation; (e) Trade Secret Information; and (f) all other industrial and other intellectual property rights, including, without limitation, rights in inventions, discoveries, utility models, industrial designs, models, drawings, and mask works, and all rights, interests and protections that are associated with, equivalent with, or similar to, or required for the exercise of, any of the foregoing, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, such rights or forms of protection pursuant to any Laws.

1.20 **“Know-How”** means all Trade Secret Information, scientific, technical and commercial data and documents, drawings, designs, operating experience and techniques, testing results, regulatory submissions, methods of manufacture, specifications, processes, procedures, inventions and other information of a similar nature, in each case related to AquaRefining, whether patentable or not, and whether publicly available or not.

1.21 **“Law”** or **“Laws”** means any applicable federal, state, local, municipal, foreign, international, multinational or other administrative order, constitution, law, ordinance, principle of common law, regulation, statute or treaty.

1.22 **“Liabilities”** or **“Liability”** means all losses, costs, damages, judgments, settlements, interest, fees or expenses including, without limitation, all reasonable attorneys’ fees, experts’ or consultants’ fees, expenses and costs incurred in connection with the enforcement of rights and remedies hereunder or otherwise.

1.23 ***

1.24 **“Party”** or **“Parties”** is defined in the Preamble.

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

1.25 “**Patents**” means all patents (including all reissues, divisionals, provisionals, continuations and continuations-in-part, re-examinations and renewals thereof), patent applications, inventions, and other patent rights and any other Governmental Authority-issued indicia of invention ownership (including inventor’s certificates, petty patents and patent utility models).

1.26 “**Person**” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

1.27 “**Recipient**” is defined in Section 1.7.

1.28 “**Region**” or “**Regions**” shall mean (1) North America, (2) Europe and (3) China.

1.29 “**Representatives**” is defined in Section 7.1.

1.30 “**Supplier**” is defined in the Preamble.

1.31 “**Term**” is the term of this Agreement as set forth in Section 6.1.

1.32 “**Tolling/Purchase Agreement**” means that certain Tolling/Lead Purchase Agreement of even date herewith between Supplier and Customer.

1.33 “**Trademarks**” means all rights in and to U.S. and foreign trademarks, service marks, trade dress, trade names, brand names, logos, corporate names and domain names and other similar designations of source, sponsorship, association or origin, together with the goodwill symbolized by any of the foregoing, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection.

1.34 “**Trade Secret**” shall have the meaning set forth in the statutory Law of the State of Delaware (currently 20 Del. C. § 2001(4)).

1.35 “**Trade Secret Information**” means information constituting a Trade Secret or subject to protection as a Trade Secret.

ARTICLE II COLLABORATION

2 . 1 **Agreement to Collaborate.** The Parties agree to enter into good faith negotiations for the formation of a long-term strategic relationship, more fully described in Article III, pursuant to which Customer shall become the “launch customer” of Supplier, with a “first mover advantage” and *** with respect to Supplier’s initial licensing of a AquaRefining and/or licensing or sale of the AquaRefining Equipment to third parties on a delivered, installed and fully commissioned basis. The collaboration referred to in this Section 2.1 is referred to herein as the “**Development Program**”.

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

2 . 2 **Development Program - General.** The Parties agree to use their good faith, commercial best-efforts to discuss and negotiate the Development Program consistent with the terms and conditions of Article III. The Parties acknowledge and agree, however, that the provisions of Article III are not complete and are intended solely as the basis for further discussions and are not intended to be, nor do they constitute, nor do they form the basis by which any arbitrator or court can determine, a legally binding agreement of the Parties with respect to the proposed Development Program or any of the matters set forth in Article III. Neither Party shall have any obligations or rights with respect to any of the matters set forth in Article III until such time, if ever, as the Parties enter into a written definitive agreement reflecting the final terms of the Development Program ("**Development Program Agreement**"), including the timeline for rolling-out the Development Program and all the terms and conditions of the Development Program and the Parties' respective rights and obligation thereunder. The Parties agree to use their good faith, commercial best-efforts to conclude their discussion and negotiation of the Development Program no later than April 30, 2018, and to enter into, no later than June 30, 2018, a Development Program Agreement. Until the earlier of the expiration of the Term or the execution by the Parties of the Development Program Agreement, Supplier agrees that it will not supply AquaRefining Equipment or license AquaRefining to third parties. Except as set forth above with respect to Article III (Development Program), this Agreement, particularly Article II (Collaboration), Article IV (Intellectual Property), Article VI (Termination) and Article VII (Confidentiality), shall represent the binding agreement of the Parties.

ARTICLE III DEVELOPMENT PROGRAM

The Parties hereby agree to use their good faith, commercial best-efforts to negotiate and enter into the Development Program Agreement consistent with the following terms and conditions:

3 . 1 **Term.** The Development Program Agreement shall have an initial fixed 5-year term ending on the fifth anniversary of the Effective Date.

3 . 2 **Termination; Automatic Extensions .** The Development Program Agreement shall provide that commencing on the second anniversary of the Effective Date, either Party shall be able to terminate the Development Program Agreement by providing a notice of termination, the delivery and receipt of which shall trigger a termination of the Development Program Agreement on the third anniversary of the date of such notice. Following the expiration of the initial 5-year term, the Development Program Agreement shall automatically extend each day for another three years unless a Party has previously provided a termination notice, in which case the Development Program Agreement will terminate on the third anniversary of the date of such notice.

3 . 3 **First Facility.** The Development Program Agreement shall provide that upon written notification from Supplier of its readiness to convert or retrofit a Customer facility to be capable of using AquaRefining to produce lead, which notification may be given no later than September 30, 2017, Customer will consult with Supplier to retrofit or convert the first Customer facility (the “**First Customer Facility**”) with AquaRefining.

(a) The First Customer Facility will be used to develop a “blueprint” for additional facilities, pursuant to which Supplier and Customer staff will work together to develop detailed engineering and project plans to retrofit or convert Customer’s existing smelter-based operations to the use of Aqua Process and/or build new Customer battery recycling facilities using AquaRefining. Appropriate consideration in such plans shall be given to the issues surrounding the necessary permitting requirements for water, gases and other materials as a consequence of such retrofit or conversion activities.

(b) In connection with the First Customer Facility, Supplier will provide by way of licensing AquaRefining and/or sale or licensing of AquaRefining Equipment, the following:

(i) AquaRefining and the related equipment, engineering and systems integration support sufficient to convert the existing smelter-based operation and/or the construction of a new battery recycling facility;

(ii) Supporting equipment at Customer’s discretion;

(iii) Training, evaluation and certification of Customer’s operations personnel sufficient for such personnel to competently operate AquaRefining; and

(iv) Ongoing technical support and preventive maintenance.

(c) In connection with the First Customer Facility, Customer will provide access to equipment operating data and parameters sufficient for Supplier to provide ongoing technical support and preventive maintenance.

(d) The Parties will develop and set forth in the Development Program Agreement mutually acceptable payment terms for the design, planning, equipment supply and implementation of the First Customer Facility, working together in good faith to negotiate payment to Supplier based on the understanding that all equipment and services provided by Supplier must result in a commercially attractive recycling facility and that the cost and effort required to develop future facilities should be reduced by the success of the First Customer Facility. By way of illustration, payments to Supplier shall be structured on the following basis:

(i) Payment of time and expenses shall be made at mutually acceptable commercial rates for Supplier’s share of the planning and design tasks associated with the First Customer Facility.

(ii) Payment in one or more installments in respect of the equipment made part of AquaRefining supplied and commissioned to Customer’s satisfaction; and

(iii) Ongoing payments, based on the operational capacity of AquaRefining Equipment supplied, for any agreed upon ongoing services and licensing fees.

Given the scale of planning and preparation work required, it is expected that Supplier will commence delivery of the AquaRefining Equipment to the First Customer Facility with a target of March 2018.

3 . 4 **Collaboration Regarding Provision of AquaRefining Equipment Across Additional Customer Facilities** . The Development Program Agreement shall provide that, the Parties will work together in good faith to develop an approach and a mutually agreeable plan to augment, retrofit and/or build new battery recycling facilities using AquaRefining in Customer’s facilities (the “**Customer Facilities Plan**”) in the following regions: North America (NAFTA), China and Europe (EU) (each, as they are defined on the Effective Date, a “**Region**”), including all worldwide Customer recycling facilities and the recycling facilities of no more than three strategic partners of Customer per Region, provided that each such strategic partner supplies at least 10% of Customer ‘s tolling and/or lead offtake in the subject Region. The Development Program Agreement shall provide that the sale or lease of AquaRefining Equipment and the license of AquaRefining to Customer and such strategic partners shall be on a ***. The Customer Facilities Plan shall contain mutually agreeable commitments by the parties to devote sufficient resources to the plan. The Customer Facilities Plan shall not preclude the Parties from working together to launch and install AquaRefining in any region outside of those enumerated above. The Customer Facilities Plan shall be reviewed and updated every three months.

3.5 **Mutual Access to Supplier and Customer Facilities** . In developing the Customer Facilities Plan, Supplier will provide appropriate access to the facilities operated by Supplier (the “**Supplier Operated Facilities**”) for the purposes of training of Customer staff in the planning, commissioning and operation of AquaRefining and supporting processes. Similarly, Customer will provide appropriate access to the facilities operated by Customer for the purposes of planning, developing and commissioning AquaRefining and supporting AquaRefining Equipment.

3 . 6 **Subsequent Facilities and Serviced License Terms** . With respect to AquaRefining Equipment provided to facilities covered by the Customer Facilities Plan, such provision shall be on a “serviced license” basis, in which training, monitoring and maintenance will be included in return for:

(i) Payment of time and expenses for Supplier’ share of the planning and design tasks associated with such facilities.

(ii) Payment in one or more installments in respect of AquaRefining Equipment supplied and commissioned to Customer’s satisfaction; and

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

(iii) Ongoing licensing payments, based on the operational capacity of the AquaRefining Equipment supplied, for any agreed upon ongoing services.

3 . 7 **AquaRefining Equipment Supply Planning.** The Parties will align Supplier's capacity to supply AquaRefining with Customer's demand for same as set forth in the Customer Facilities Plan. Consistent with the foregoing, Customer shall provide a mutually agreeable schedule for Supplier to supply AquaRefining Equipment to Customer on a monthly basis (the "**Customer Call-Off Schedule**").

3 . 8 **Supplier's Right to Provide Equipment to Third Parties.** Provided that Supplier is meeting Customer's scheduled demand as outlined in Section 3.7, above, Supplier shall be free to provide AquaRefining Equipment in any Region to third parties not affiliated with Customer, provided that it is on a delivered, installed and fully commissioned basis. Notwithstanding the foregoing, the Development Program Agreement will provide that Supplier will not supply AquaRefining Equipment or license AquaRefining to third parties until the following conditions have been met:

(i) The initial planning for the First Customer Facility has been completed and resources have been identified and allocated to the Parties' mutual satisfaction; and

(ii) Customer has developed and delivered its first Customer Call-Off Schedule.

The parties agree that time is of the essence and to the consideration of reasonableness with respect to the above terms.

3 . 9 **Intellectual Property Matters.** Except as otherwise agreed by the Parties, the Development Program Agreement shall provide for each Party's rights and obligations with respect to Intellectual Property Rights consistent with Article IV of this Agreement. The Development Program Agreement shall provide Customer with rights to use the AquaRefining Technology after termination of the Development Program Agreement on terms and in circumstances mutually agreeable to the Parties, which rights, terms and circumstances shall include that in the event of the early termination of Development Program Agreement based on breach by Supplier, Customer shall be afforded indefinite access to the AquaRefining Technology sufficient to maintain and operate any and all AquaRefining Equipment provided by Supplier prior to termination. For the avoidance of doubt, it is not contemplated by the Parties that continuing access to the AquaRefining Technology shall include broad rights to manufacture or procure additional AquaRefining Equipment. Such continuing access shall be defined by mutual consent in the Development Program Agreement. By way of example, such continuing access shall provide for continuation of licenses or other forms of AquaRefining Technology rights, operating manuals, drawings of serviceable parts, suppliers of serviceable parts, operator training materials, etc.

ARTICLE IV
INTELLECTUAL PROPERTY

4.1 **Ownership Generally.** The Parties agree that, as between the Parties, Supplier will retain all right, title and interest in, and sole and exclusive ownership of, the AquaRefining Technology and any and all other Intellectual Property Rights or Know-How (to the extent the Know-How is Confidential Information) that were conceived, developed, owned or controlled by Supplier as of or prior to the Effective Date, and Customer will retain all right, title and interest in, and sole and exclusive ownership of, any and all Intellectual Property Rights or Know-How (to the extent the Know-How is Confidential Information) that were conceived, developed, owned or controlled by Customer as of or prior to the Effective Date. Each Party further acknowledges and agrees that, subject to Section 4.2, no rights or licenses to the other Party's Intellectual Property Rights or Know-How are granted by either Party by way of this Agreement to the other Party, whether expressly or by implication or estoppel. If during the term of the Development Program Agreement, the Parties agree to jointly develop Intellectual Property, then the Parties shall enter into a new written agreement to govern their rights and obligations with respect to that Intellectual Property.

4.2 **AquaRefining Improvements and Inventions.** The Parties agree that, as between the Parties, all Improvements, and any other inventions, Intellectual Property Rights or Know-How (to the extent the Know-How is Confidential Information) relating to the AquaRefining Technology that are conceived or developed by either Supplier or Customer after the Effective Date of this Agreement, whether conceived or developed solely by or on behalf of Supplier, solely by or on behalf of Customer, or jointly by Supplier and Customer (collectively, the "**Developed AquaRefining Technology**"), shall belong to and be solely and exclusively owned by Supplier, and Customer agrees to assign, and hereby does irrevocably assign, to Supplier all right, title and interest in and to the Developed AquaRefining Technology; provided, that if the Developed AquaRefining Technology is conceived or developed solely by or on behalf of Customer (a "**Customer Improvement**"), Customer will receive from Supplier a worldwide, royalty free, non-transferrable (other than to Affiliates of Customer) and perpetual license to use the Customer Improvement in its recycling operations and the recycling operations of its strategic tolling partners conducted for Customer's benefit; provided, further that the foregoing license to the Customer Improvement shall not create or give rise to any other express or implied license to the AquaRefining Technology. At Supplier's request, during and after the term of this Agreement, Customer will assist and cooperate with Supplier in all respects (and will cause any personnel and subcontractors to assist and cooperate with Supplier in all respects), and give testimony and execute documents (and cause its personnel and subcontractors to give testimony and execute documents), and take such further acts as may be reasonably requested by Supplier to enable Supplier to acquire, transfer, maintain, perfect and enforce its rights in and to the Developed AquaRefining Technology; provided, that Supplier will pay all reasonable out-of-pocket costs and expenses incurred by Customer to provide such assistance and cooperation described above. Customer agrees to carry out and enforce with its officers, employees, agents and consultants all assignment of invention agreements reasonably necessary to assign all right, title and interest in and to the Developed AquaRefining Technology to Supplier as contemplated hereunder.

4.3 **Indemnification Relating to Intellectual Property of Supplier.** Supplier shall indemnify, defend and hold harmless the Customer, its Affiliates and their respective officers, directors, shareholders, employees, agents and customers (the "**Customer Indemnified Parties**") from and against any loss, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense (including reasonable attorney, consultant and professional fees and costs), and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, resulting from all Claims alleging that AquaRefining, any of the AquaRefining Technology or the AquaRefining Equipment, or any of the other Intellectual Property Rights, Know-How or Trade Secrets of Supplier, infringes the proprietary rights of any third party.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.1 **Mutual Representations and Warranties.** Each Party hereby represents and warrants to the other Party that:

- (a) it is a corporation or limited liability company, as the case may be, duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization;
- (b) it is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required, except where the failure to be so qualified, would not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement;
- (c) it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder;
- (d) the execution of this Agreement by such Party, and the delivery of this Agreement by such Party, have been duly authorized by all necessary action on the part of such Party;
- (e) the execution, delivery and performance of this Agreement by such Party will not violate, conflict with, require consent under or result in any breach or default under (i) any of such Party's organizational documents, (ii) any applicable Law or (iii) with or without notice or lapse of time or both, the provisions of any contract to which it is a Party;
- (f) this Agreement have been executed and delivered by such Party and (assuming due authorization, execution and delivery by the other Party hereto) constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms, except as may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar Laws and equitable principles related to or affecting creditors' rights generally or the effect of general principles of equity;
- (g) it is in material compliance with all applicable Laws; and
- (h) it has sufficient working capital to perform its obligations under this Agreement and it is not insolvent.

**ARTICLE VI
TERM; TERMINATION**

6 . 1 **Term.** Subject to early termination pursuant to this Agreement, this Agreement may be terminated (i) by written agreement of the Parties or (ii) by either Supplier or Customer upon sixty (60) days' prior written notice to the other Party if the Development Program Agreement has not been entered into by June 30, 2018 ("**Outside Termination Date**"); provided, that the right to terminate this Agreement under Section 6.1(ii) shall not be available to any Party whose failure to comply with its obligations under this Agreement has been the primary cause of or primarily resulted in the failure of the Parties to enter into the Development Program by the Outside Termination Date. In the event either Party delivers its notice of termination under Section 6.1(ii), each Party shall remain obligated to use its good faith, commercial best-efforts to negotiate and enter into the Development Program Agreement during the sixty (60) day notice period.

6 . 2 **Early Termination.** Either Party may terminate this Agreement upon ten (10) days prior written notice to the other Party in the event of any material breach of this Agreement by the other Party that goes uncorrected for thirty (30) days following written notice to the breaching Party.

6 . 3 **Consequences of Termination.** Upon the termination of this Agreement, (i) each of the Parties shall promptly comply with the provisions of Section 7.3 (regarding the return of all Confidential Information, Trade Secret Information and related information and materials); and (ii) Article IV, Article V and Article VII shall survive any expiration or termination of this Agreement. Termination or expiration of this Agreement shall not affect any rights or liabilities accrued prior to such expiration or termination.

**ARTICLE VII
CONFIDENTIALITY**

7.1 **Restrictions on Disclosure and Use of Confidential Information.** Recipient shall not use the Confidential Information of Discloser for any purpose except for the purpose of performing its obligations and exercising its rights under this Agreement. Recipient shall maintain the confidentiality of all Confidential Information of Discloser with at least the same degree of care it uses to protect its own proprietary information of a similar nature or sensitivity, but no less than reasonable care under the circumstances. Unless Discloser grants specific, written, advance permission to do so, Recipient shall not disclose any Confidential Information to any third party except as provided for in this Article VII. Recipient shall limit access to Confidential Information of Discloser to those employees, contractors, or distributors of Recipient (collectively, "**Representatives**") who have a need to know such information in order to assist Recipient in performance of its obligations and/or exercise of its rights under this Agreement and who are bound by confidentiality and non-use obligations to Recipient at least equivalent to Recipient's obligations to Discloser under this Agreement; provided, that, the Recipient shall be responsible for indemnifying the Discloser against any Claims or Liabilities of the Discloser arising out of the Representatives' use or disclosure of such Confidential Information in a manner that the Recipient would not be permitted to use or disclose hereunder.

7 . 2 **Exceptions.** Recipient may disclose Confidential Information to the extent required by Laws or order of a court of competent jurisdiction, provided that, in such event, Recipient shall provide Discloser prompt, advance notice of such requirement to allow intervention (and shall cooperate with Discloser) to contest or minimize the scope of the disclosure (including through application for a protective order) and provide the Discloser with a copy of the proposed disclosure in sufficient time to allow reasonable opportunity to comment thereon.

7 . 3 **Return of Confidential Information.** Upon any expiration or termination of this Agreement and at any time upon written request by the Discloser, Recipient shall return all Confidential Information of Discloser and any copies thereof and all notes, memoranda or analysis relating thereto, and, to the extent legally permitted, delete or destroy all notes, documents, electronic mail or other computer storage which contain any Confidential Information and certify to the deletion or destruction within thirty (30) days after such written request from the Discloser; provided, however, that (a) the foregoing requirements do not apply to the extent that the Recipient is entitled to continue to use such Confidential Information pursuant to the terms of this Agreement, (b) the Recipient may retain one (1) copy of Confidential Information in a secure location for compliance purposes; and (c) the Recipient shall not be required to erase any computer records or files containing Confidential Information that have been created pursuant to standard archiving or back-up procedures, if applicable, if the Recipient continues to maintain the confidentiality of, and does not use for any purpose, such archived or backed-up information in accordance with the confidentiality and non-use restrictions hereunder.

7 . 4 **Reservation of Rights.** Any and all rights not expressly granted to Recipient herein are reserved by Discloser and no rights shall be implied for the benefit of Recipient as a result of this Agreement or the Parties' activities hereunder.

7 . 5 **Hiring of Employees.** During the Term and for a period of twelve (12) months thereafter, neither Supplier (nor Supplier's Affiliates) shall (i) directly or indirectly encourage any employee of Customer to terminate such employee's employment with Customer, or solicit such an individual for employment (or engagement as a contractor or consultant) outside Customer in a manner which would end or diminish the employee's services to Customer, or (ii) hire, in any capacity, including as an employee, contractor or consultant, any individual who is either an employee of Customer or was an employee of Customer during the prior twelve (12) month period, without the prior written consent of Customer.

ARTICLE VIII GENERAL TERMS AND CONDITIONS

8 . 1 **Notice.** Each Party shall designate an authorized representative for receipt of any notice or requests provided for or permitted under this Agreement ("**Authorized Representative**"). Any notice or request provided for or permitted under this Agreement shall be in writing and shall be delivered in person or by facsimile, registered or certified mail return receipt requested, express delivery service or other nationally recognized overnight delivery service to the Authorized Representative of the other Party. Notice shall be considered given when received by the Authorized Representative at the address designated below. Either Party, by notice to the other Party in accordance with this Section 8.1, may change its Authorized Representative and/or address for receiving such notices.

To Customer: Johnson Controls Battery Group, Inc.
5757 N. Green Bay Avenue
Milwaukee, WI 53209
Attention: ***

With a copy to: Johnson Controls Battery Group, Inc.
(for informational 5757 N. Green Bay Avenue
purposes only) Milwaukee, WI 53209
Attention: ***

To Supplier: Aqua Metals, Inc.
1010 Atlantic Avenue
Alameda, CA 94501
Attention: ***

With a copy to: Greenberg Traurig, LLP
3161 Michelson Drive, Suite 1000
Irvine, CA 92612
Attention: ***

8.2 **Governing Law.** The rights and obligations of the Parties to this Agreement and the validity, construction, interpretation and performance of this Agreement and any claims arising under or related to this Agreement, whether in contract or tort, shall be governed by, construed and enforced in accordance with the laws of Delaware without regard to the provisions thereof concerning conflict of laws. The United Nations Convention on Contracts for the International Sales of Goods is expressly excluded from application to this Agreement in any way.

8.3 **Injunctive Relief.** The Parties expressly acknowledge and agree that any breach or threatened breach by either Party of Article IV or Article VII, may cause immediate and irreparable harm to the other Party which may not be adequately compensated with money damages. Each Party therefore agrees that in the event of such breach or threatened breach and in addition to any remedies available at Law, the Party seeking a remedy for such breach or threatened breach shall have the right to seek equitable and injunctive relief from a court having jurisdiction, without bond for any permanent injunctive relief, in connection with such a breach or threatened breach.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

8.4 **Dispute Resolution.**

(a) The Parties may, but are not obligated to, attempt to resolve any dispute informally as follows:

(i) Either Party may initiate the informal dispute resolution process by giving written notice of a dispute (“**Dispute Notice**”) to the other Party. The other Party shall have five (5) Business Days to respond. The Dispute Notice and the response shall each include: (1) a statement of the Party’s position and a summary of arguments supporting that position, and (2) the name and title of the designated representative who will represent that Party in attempting to resolve the dispute.

(ii) Within ten (10) Business Days of delivery of the Dispute Notice, the Parties’ designated representatives will meet (and will continue to meet as often as the Parties choose) to gather and furnish to one-another the information necessary and appropriate to resolve the dispute. The designated representatives will discuss the problem and attempt to resolve the dispute without any additional formal proceeding.

(iii) If, within twenty (20) Business Days of the delivery of the Dispute Notice, the designated representatives are unable to resolve the dispute, either Party may escalate the dispute to the appropriate senior manager(s) within their organization. The senior managers of each Party will then meet (and continue to meet as often as the Parties choose) to attempt in good faith to resolve the dispute.

(iv) All negotiations pursuant to this Section 8.4 will be confidential and will be treated as compromise and settlement negotiations for purposes of the applicable rules of evidence.

(v) Either Party may end an informal dispute resolution process at any time and for any reason.

(b) If the informal dispute resolution above is not initiated or, if initiated, does not resolve the dispute, either Party may pursue its rights in litigation. In all such cases the Parties agree and consent to the exclusive jurisdiction of the State of Delaware. Each Party shall bear its own costs, including all attorneys’ fees, incurred in litigation arising under this Agreement. If the court awards a temporary restraining order, preliminary injunction, or other interim equitable relief to either Party, the Party receiving such relief shall not be required to post a bond (if permitted by Law).

(c) The Parties agree that they shall not raise, and hereby waive, any defenses based upon venue, inconvenience of forum or lack of personal jurisdiction in any action or suit brought in accordance with Section 8.4(b).

8.5 **Cumulative Remedies.** Customer’s rights and remedies under this Agreement are cumulative and are in addition to any other rights and remedies available at Law, equity or otherwise.

8 . 6 **Non-Waiver.** The failure to enforce at any time any of the provisions of this Agreement or to require at any time performance by any Party of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or to affect the validity of this Agreement, or any part hereof, or the right of any Party thereafter to enforce each and every such provision in accordance with the terms of this Agreement.

8 . 7 **Assignments and Subcontracts.** Except as set forth in Section 2.2, this Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Neither Party may assign or subcontract this Agreement, or any of its rights, interests or obligations hereunder (whether voluntarily or involuntarily, by operation of Law or otherwise), without the prior written consent of the other Party.

8 . 8 **Status of the Parties.** Each Party hereby represents and warrants that it is engaged in an independent business and shall perform its obligations under this Agreement as an independent contractor and not as an agent or employee of or a joint venturer with the other Party; that the persons performing the services hereunder are not agents or employees of the other Party; that each Party has and hereby retains, except as set forth herein, the right to exercise full control with respect to the means of its performance hereunder and full control over the employment, direction, compensation and discharge of all its employees, agents and subcontractors assisting in such performance; that each Party shall be solely responsible for all matters relating to payment of such employees, including compliance with worker's compensation, unemployment and disability insurance, social security withholding, and all such matters; and that each Party shall be responsible for its acts and the acts of all agents, employees and contractors employed by it during its performance under this Agreement. Neither Party shall hold itself out as having authority to create binding obligations for the other Party, nor create or purport to create any binding obligations for the other Party whatsoever.

8 . 9 **Headings.** The Section headings included throughout this Agreement are for convenience only and are not intended to affect the meaning or interpretation of this Agreement.

8.10 **Acceptance and Signatures in Counterparts.** This Agreement shall not be effective unless and until it is signed by all Parties, and cannot be accepted by any other means. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall be deemed to constitute one and the same instrument. An executed signature page of this Agreement delivered by facsimile or email transmission shall be as effective as an original executed signature page.

8.11 **Construction.** This Agreement has been negotiated and drafted by both Parties, and neither Party shall be considered the drafter or primary drafter of this Agreement. Notwithstanding any rule of construction to the contrary, the Parties agree that this Agreement shall not be interpreted against either Party on the basis that such Party was the drafter or primary drafter of the Agreement.

8.12 **Insurance.** During the Term and for a period of two years thereafter, each Party shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than Five Million US Dollars (\$5,000,000 UDS) and workers' compensation coverage consistent with statutory requirements with financially sound and reputable insurers. Upon Customer's request, Supplier shall provide Customer with a certificate of insurance from Supplier's insurer evidencing the insurance coverage specified in this Agreement. The certificate of insurance shall name Customer as an additional insured. Supplier shall provide Customer with thirty (30) days' advance written notice in the event of a cancellation or material change in Supplier's insurance policy. Except where prohibited by law, Supplier shall require its insurer to waive all rights of subrogation against Customer's insurers and Customer or the Customer Indemnified Parties.

8.13 **Amendment; Complete Agreement.**

(a) **Amendment.** Except as otherwise provided herein, this Agreement may be varied or amended only by the written and signed agreement of the Parties through their Authorized Representatives, specifically referring to this Agreement.

(b) **Complete Agreement.** This Agreement and other documents expressly incorporated by reference herein, constitute the complete and exclusive statement of the terms of the Agreement between the Parties with respect to the subject matter hereof, and supersede any prior or contemporaneous communications, with respect to the subject matter hereof, including, without limitation, that certain Confidential Indicative Term Sheet for Potential Strategic Relationship Between Johnson Controls International plc and Supplier dated January 12, 2017. No statement or agreements, oral or written, made prior to or at the signing hereof shall vary or modify the written terms hereof, and neither Party shall claim any modification or rescission from any provision hereof unless such modification or rescission is in writing and signed by the Authorized Representative of the other Party.

8.14 **Severability.** If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, then to the fullest extent permitted by applicable Law such provision will be severed and shall not be considered part of this Agreement. All other provisions of this Agreement shall remain in full force and effect. However, in the event such provision is considered an essential element of this Agreement, the Parties shall promptly negotiate a valid and enforceable replacement for the provision that is consistent with applicable law and achieves, as nearly as possible, the original intention of the Parties. To the fullest extent permitted by applicable Law, the Parties waive any provision of Law that would render any provision of this Agreement invalid, illegal or unenforceable in any respect.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have as of the Effective Date duly executed this Agreement.

SUPPLIER:

CUSTOMER:

Aqua Metals, Inc.

Johnson Controls Battery Group, Inc.

By: /s/ Dr. Stephen R. Clarke
Dr. Stephen R. Clarke,
Chief Executive Officer

By: /s/ Brian Stiel
Brian Stiel,
EVP and Chief Financial Officer

STOCK PURCHASE AGREEMENT

by and between

AQUA METALS, INC.

and

TYCO INTERNATIONAL FINANCE S.A.

dated as of February 7, 2017

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STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (this “**Agreement**”), dated as of February 7, 2017, is entered into by and between Aqua Metals, Inc., a Delaware corporation (the “**Company**”), and Tyco International Finance S.A., a company organized under the laws of Luxembourg (“**Purchaser**”).

RECITALS

WHEREAS, the Company has authorized the issuance and sale by the Company to the Purchaser of shares of common stock of the Company, par value \$0.001 per share (the “**Common Stock**”); and

WHEREAS, the Company desires to issue and sell to Purchaser, and Purchaser desires to purchase from the Company, shares of the Common Stock, on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the representations warranties, covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

**ARTICLE I
DEFINITIONS**

The following terms have the meanings specified or referred to in this Article I:

“**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise ..

“**Agreement**” has the meaning set forth in the preamble.

“**Audited Financial Statements**” has the meaning set forth in Section 3.10.

“**Balance Sheet**” has the meaning set forth in Section 3.10.

“**Balance Sheet Date**” has the meaning set forth in Section 3.10.

“**Benefit Plan**” has the meaning set forth in Section 3.21(a).

“**Business Day**” means any day except Saturday, Sunday or any other day on which commercial banks located in Milwaukee, Wisconsin are authorized or required by Law to be closed for business.

“**Bylaws**” means the Amended and Restated Bylaws of the Company, as may be amended, restated or modified from time to time.

“**CERCLA**” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.

“**Certificate of Incorporation**” means that certain First Amended and Restated Certificate of Incorporation of the Company filed with the Delaware Secretary of State on October 1, 2014, as may be amended, restated or modified from time to time.

“**Closing**” has the meaning set forth in Section 2.03.

“**Closing Date**” has the meaning set forth in Section 2.03.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Common Stock**” has the meaning set forth in the recitals.

“**Company**” has the meaning set forth in the preamble.

“**Contracts**” means all contracts, leases, deeds, mortgages, licenses, instruments, notes, loans, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral.

“**Disclosure Schedules**” means the Disclosure Schedules delivered by the Company and Purchaser concurrently with the execution and delivery of this Agreement.

“**Dollars**” or “**\$**” means the lawful currency of the United States.

“**Employment Laws**” has the meaning set forth in Section 3.22(d).

“**Encumbrance**” means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

“**Environmental Claim**” means any Action, Governmental Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

“Environmental Law” means any applicable Law, and any Governmental Order or binding agreement with any Governmental Authority: (a) relating to pollution (or the cleanup thereof) or the protection of natural resources, endangered or threatened species, human health or safety, or the environment (including ambient air, soil, surface water or groundwater, or subsurface strata); or (b) concerning the presence of, exposure to, or the management, manufacture, use, containment, storage, recycling, reclamation, reuse, treatment, generation, discharge, transportation, processing, production, disposal or remediation of any Hazardous Materials. The term “Environmental Law” includes, without limitation, the following (including their implementing regulations and any state analogs): the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

“Environmental Notice” means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

“Environmental Permit” means any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Company, is treated as a single employer under Section 414(b), (c), (m) or (o) of the Code.

“Equipment Supply Agreement” means that certain Equipment Supply Agreement, dated as of the date hereof, by and between Johnson Controls Battery Group, Inc., an Affiliate of Purchaser, and the Company.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Financial Statements” has the meaning set forth in [Section 3.10](#).

“**FINRA**” means the Financial Industry Regulatory Authority, Inc.

“**GAAP**” means United States generally accepted accounting principles in effect from time to time.

“**Governmental Authority**” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

“**Governmental Licenses**” has the meaning set forth in Section 3.19.

“**Governmental Order**” means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

“**Hazardous Materials**” means: (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or man-made, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation, and polychlorinated biphenyls.

“**Insurance Policies**” has the meaning set forth in Section 3.17.

“**Intellectual Property Rights**” has the meaning set forth in Section 3.16.

“**Interim Balance Sheet**” has the meaning set forth in Section 3.10.

“**Interim Balance Sheet Date**” has the meaning set forth in Section 3.10.

“**Interim Financial Statements**” has the meaning set forth in Section 3.10.

“**Investor Rights Agreement**” means the Investor Rights Agreement, dated as of the date hereof, by and between the Company and the Purchaser, substantially in the form attached hereto as Exhibit A.

“**Knowledge of the Company**” or “**the Company’s Knowledge**” or any other similar knowledge qualification, means the actual knowledge of any director or officer of the Company.

“**Law**” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

“**Liabilities**” has the meaning set forth in Section 3.12.

“**Losses**” means losses, damages, liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers; provided, that “Losses” shall not include any punitive or exemplary damages.

“**Material Adverse Effect**” means any event, occurrence, fact, condition or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to the business, results of operations, prospects, condition (financial or otherwise) or assets of the Company.

“**Money Laundering Laws**” has the meaning set forth in Section 3.31.

“**Multiemployer Plan**” has the meaning set forth in Section 3.21(c).

“**NASDAQ**” means the Nasdaq Capital Market.

“**OFAC**” has the meaning set forth in Section 3.32.

“**Permits**” means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances and similar rights obtained, or required to be obtained, from Governmental Authorities.

“**Permitted Encumbrances**” has the meaning set forth in Section 3.15(a).

“**Person**” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

“**Per Share Purchase Price**” has the meaning set forth in Section 2.01.

“**Purchase Price**” has the meaning set forth in Section 2.01.

“**Purchaser**” has the meaning set forth in the preamble.

“**Purchaser Indemnitees**” has the meaning set forth in Section 7.02.

“**Qualified Benefit Plan**” has the meaning set forth in Section 3.21(c).

“**Real Property**” means the real property owned, leased or subleased by the Company, together with all buildings, structures and facilities located thereon.

“**Release**” means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including, without limitation, ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

“**Representative**” means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

“**SEC**” means the Securities and Exchange Commission.

“**SEC Documents**” means the Company’s reports, schedules, forms, statements and other documents required to be filed by it under the Exchange Act or the Securities Act and all exhibits included therein and financial statements and schedules thereto and documents incorporated by reference therein.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“**Shares**” has the meaning set forth in Section 2.01.

“**Subsidiary**” means, with respect to any Person, any corporation, association, partnership, joint venture, or other business or corporate entity, enterprise or organization which is directly or indirectly (through one or more intermediaries) controlled by or owned fifty 50% or more by such Person.

“**Taxes**” means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

“**Tax Return**” means any return, declaration, report, claim for refund, information return or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“**Tolling/Lead Purchase Agreement**” means that certain Tolling/Lead Purchase Agreement, dated as of the date hereof, by and between Johnson Controls Battery Group, Inc., an Affiliate of Purchaser, and the Company.

“**Transaction Documents**” means this Agreement, the Investor Rights Agreement, the Equipment Supply Agreement, the Tolling/Lead Purchase Agreement and each of the other agreements and instruments entered into or delivered by any of the parties hereto or their designated Affiliates in connection with the consummation of the transactions contemplated hereby and thereby, as may be amended from time to time.

“**Union**” means any labor union, organization, association, work council, or other group representing employees with respect to their employment.

“**WARN**” has the meaning set forth in Section 3.22(i).

**ARTICLE II
PURCHASE AND SALE**

Section 2.01 **Purchase and Sale.** Subject to the terms and conditions set forth herein, at the Closing, the ‘Company shall issue and sell to Purchaser, and Purchaser shall purchase from the Company, an aggregate of 939,005 shares of Common Stock (the “Shares”), for a per share purchase price of \$11.33 (the “Per Share Purchase Price”), which equals an aggregate purchase price of \$10,638,926.65 (the “Purchase Price”).

Section 2.02 **Transactions Effected at the Closing.**

(a) At the Closing, Purchaser shall deliver to the Company:

(i) the Purchase Price by wire transfer of immediately available funds to an account of the Company designated in writing by the Company to Purchaser at least two (2) Business Days prior to the Closing; and

(ii) the Transaction Documents and all other agreements, documents, instruments or certificates required to be delivered by Purchaser at or prior to the Closing pursuant to Section 5.03 of this Agreement.

(b) At the Closing, the Company shall deliver to Purchaser:

(i) evidence of the Shares credited to book-entry accounts maintained by the transfer agent of the Company (the “Transfer Agent”), bearing the legend or restrictive notation set forth in Section 4.05 of this Agreement, free and clear of all Encumbrances, other than transfer restrictions set forth herein, under the Bylaws and applicable federal and state securities laws; and

(ii) the Transaction Documents and all other agreements, documents, instruments or certificates required to be delivered by the Company at or prior to the Closing pursuant to Section 5.02 of this Agreement.

Section 2.03 **Closing.** Subject to the terms and conditions of this Agreement, the purchase and sale of the Shares contemplated hereby shall take place at a closing (the “Closing”) at the offices of Goodwin Procter LLP, 3 Embarcadero Center, San Francisco, CA 94111 at 9:00 am., Pacific time, on the date this Agreement is executed by the parties (the “Closing Date”).

Section 2.04 **Use of Proceeds.** The proceeds from the purchase and sale of the Shares shall be used by the Company for working capital and general corporate purposes, including the acceleration of the Company’s AquaRefining product development, inclusive of enhancement of processes and other improvements.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the Disclosure Schedules, the Company represents and warrants to Purchaser that the statements contained in this Article III are true and correct as of the date hereof. The Disclosure Schedules shall be arranged in sections corresponding to the numbered and lettered sections and subsections contained in this Article III, and the disclosures in any section or subsection of the Disclosure Schedules shall qualify other sections and subsections in this Article III only to the extent it is readily apparent from a reading of the disclosure that such disclosure is applicable to such other sections and subsections.

Section 3.01 **Organization, Qualification and Authority of the Company.** The Company is a corporation duly organized, validly existing and in good standing under the Laws of the state of Delaware and has full corporate power and authority to (a) enter into this Agreement and the other Transaction Documents to which the Company is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby and (b) own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it has been and is currently conducted. Section 3.01 of the Disclosure Schedules sets forth each jurisdiction in which the Company is licensed or qualified to do business, and the Company is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not, individually or in the aggregate, have a Material Adverse Effect. The execution and delivery by the Company of this Agreement and any other Transaction Document to which the Company is a party, the performance by the Company of its obligations hereunder and thereunder and the consummation by the Company of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of the Company. This Agreement has been duly executed and delivered by the Company, and (assuming due authorization, execution and delivery by Purchaser) this Agreement constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, usury and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. When each other Transaction Document to which the Company is or will be a party has been duly executed and delivered by the Company (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of the Company enforceable against it in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, usury and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

Section 3.02 **Capitalization.**

(a) As set forth on Section 3.02(a) of the Disclosure Schedules, the authorized capital stock of the Company immediately following the Closing after giving effect to the transactions contemplated by this Agreement will consist of 50,000,000 shares of Common Stock, of which (A) 18,817,730 shares will be issued and outstanding, (B) 24,237,754 shares will be issued and outstanding on a fully-diluted, as converted and as exercised basis, and (C) 6,122,271 shares will be reserved for issuance upon exercise of outstanding stock options, warrants and other convertible securities.

(b) As of immediately following the Closing after giving effect to the transactions contemplated by this Agreement, (i) all of the issued and outstanding shares of Common Stock will have been duly authorized, validly issued, and will be fully paid and non-assessable, (ii) all of the issued and outstanding shares of Common Stock will have been issued in compliance with all applicable federal and state securities Laws, (iii) none of the issued and outstanding shares of Common Stock will have been issued in violation of any agreement, arrangement or commitment to which the Company or any of its Affiliates is a party or subject to or in violation of any preemptive or similar rights of any Person granted by the Company, and (iv) all of the Shares will have the rights, preferences, powers, restrictions and limitations set forth in the Certificate of Incorporation and under the Delaware General Corporation Law.

(c) Section 3.02(c) of the Disclosure Schedules also sets forth, as of immediately following the Closing after giving effect to the transactions contemplated by this Agreement, all outstanding or authorized (i) stock options and (ii) any warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of the Company or obligating the Company to issue or sell any shares of capital stock of, or any other interest in, the Company, in each case, including the number and kind of securities reserved for issuance on exercise or conversion of any such securities or other rights, the exercise or conversion price of any such securities or other rights and any applicable vesting schedule for any such securities or other rights. Except as set forth on Section 3.02(c) of the Disclosure Schedules, the Company does not have outstanding, authorized, or in effect any stock appreciation, phantom stock, profit participation or similar rights. Except as set forth on Section 3.02(c) of the Disclosure Schedules, there are no voting trusts, stockholder agreements, proxies or other agreements, understandings or obligations in effect with respect to the voting, transfer or sale (including any rights of first refusal, rights of first offer or drag-along rights), issuance (including any pre-emptive or anti-dilution rights), redemption or repurchase (including any put or call or buy-sell rights), or registration (including any related lock-up or market standoff agreements) of any shares of capital stock or other securities of the Company.

(d) The Company's currently outstanding shares of Common Stock are quoted on the NASDAQ Capital Market, and the Company has not received any notice of delisting.

Section 3.03 Subsidiaries. Section 3.03 of the Disclosure Schedules contains a complete list of all of the Subsidiaries of the Company. Each such Subsidiary is an entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, has all requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted and is duly qualified as a foreign entity in all jurisdictions in which it is required to be so qualified. Except as set forth on Section 3.03 of the Disclosure Schedules, the Company does not presently have any other Subsidiaries or, directly or indirectly, own, control or have any interest in any shares or other ownership interest in any other Person. As to any Subsidiaries of the Company listed in Section 3.03 of the Disclosure Schedule, the Company owns, directly or indirectly, the equity interest in those Subsidiaries that are indicated in Section 3.03 of the Disclosure Schedule.

Section 3.04 SEC Documents. The Company has timely filed with the SEC all SEC Documents. The SEC Documents, including any audited or unaudited financial statements and any notes thereto or schedules included therein, at the time filed (in the case of registration statements, solely on the dates of effectiveness) (except to the extent corrected by a subsequently filed SEC Document filed prior to the date hereof), 0) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, (ii) on their face complied as to form in all material respects with applicable requirements of the Exchange Act and the applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto, (iii) were prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) and (iv) fairly present (subject in the case of unaudited statements to normal, recurring and year-end audit adjustments) in all material respects the consolidated financial position of the Company as of the dates thereof and the consolidated results of its operations and cash flows for the periods then ended.

Section 3.05 No Defaults; Violations. No material default exists in the due performance and observance of any term, covenant or condition of any material license, contract, indenture, mortgage, deed of trust, note, loan or credit agreement, or any other material agreement or instrument evidencing an obligation for borrowed money, or any other material agreement or instrument to which the Company is a party or by which the Company may be bound or to which any of the properties or assets of the Company is subject. The Company is not in violation of any term or provision of its Certificate of Incorporation or Bylaws, or in violation of any franchise, license, permit, applicable law, rule, regulation, judgment or decree of any governmental agency or court, domestic or foreign, having jurisdiction over the Company or any of its properties or businesses.

Section 3.06 Consents. All consents, authorizations, approvals and orders required in connection with the execution, delivery, and performance by the Company of each of the Transaction Documents and all ancillary documents to which it is a party, the consummation by the Company of the transactions herein and therein contemplated and the compliance by the Company with the terms hereof and thereof have been obtained. No consent, authorization or order of, and no filing with, any court, government agency or other body is required for the valid issuance, sale and delivery of the securities and the consummation of the transactions and agreements contemplated by this Agreement and as contemplated by the disclosures the SEC Documents.

Section 3.07 No Conflicts, etc. The execution, delivery, and performance by the Company of this Agreement and the Transaction Documents, the consummation by the Company of the transactions herein and therein contemplated and the compliance by the Company with the terms hereof and thereof do not and will not, with or without the giving of notice or the lapse of time or both: (i) result in a violation or breach of, or conflict with any of the terms and provisions of, or constitute a default under, or result in the creation, modification, termination or imposition of any lien, charge or encumbrance upon any property or assets of the Company pursuant to the terms of any agreement or instrument to which the Company is a party that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect; (ii) conflict with or result in any violation or breach of the provisions of the Certificate of Incorporation or Bylaws; or (iii) conflict with or result in the Company's violation or breach of any existing applicable law, rule, regulation, judgment, order or decree of any governmental agency or court, domestic or foreign, having jurisdiction over the Company or any of its properties or business constituted as of the date hereof that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 3.08 Disclosure Controls. The Company and its Subsidiaries maintain a system of “disclosure controls and procedures” (as such term is defined in Rule 13a-15(e) of the Exchange Act) that complies with the requirements of the Exchange Act and that has been designed to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company’s management as appropriate to allow timely decisions regarding required disclosure to be made; such disclosure controls and procedures are effective.

Section 3.09 Accounting Controls. The Company and its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including, but not limited to, internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. There are no material weaknesses in the internal controls over financial reporting of the Company. The Company’s auditors and the Audit Committee of the board of directors of the Company have been advised of: (i) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which have adversely affected or are reasonably likely to adversely affect the ability of the Company to record, process, summarize and report financial information; and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company’s internal controls over financial reporting.

Section 3.10 Financial Statements. Complete copies of (i) the audited consolidated financial statements, including the notes thereto and supporting schedules, if any, of the Company and its Subsidiaries consisting of the balance sheet of the Company as at December 31 in each of the years 2014 and 2015 and the related statements of income and retained earnings, stockholders' equity and cash flow for the years then ended (the "**Audited Financial Statements**"), (ii) reviewed but unaudited financial statements consisting of the balance sheet of the Company as at September 30, 2016 and the related statements of income and retained earnings, stockholders' equity and cash flow for the nine-month period then ended (the "**Interim 9/30/16 Financial Statements**") and (iii) unaudited financial statements consisting of the balance sheet of the Company as at December 31, 2016 and the related statements of income and retained earnings, stockholders' equity and cash flow for the twelve-month period then ended (the "**Interim 12/31/16 Financial Statements**" and, together with the Audited Financial Statements and the Interim 9/30/16 Financial Statements, the "**Financial Statements**") have been delivered to Purchaser. The Financial Statements (other than the Interim 12/31/16 Financial Statements) have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved, subject, in the case of the Interim 9/30/16 Financial Statements, to normal and recurring year-end adjustments (the effect of which will not be materially adverse) and the absence of notes (that, if presented, would not differ materially from those presented in the Audited Financial Statements). The Interim 12/31/16 Financial Statements are materially accurate, subject to normal and recurring year-end adjustments and the absence of notes. The Financial Statements are based on the books and records of the Company, and fairly present the financial condition of the Company as of the respective dates they were prepared and the results of the operations of the Company for the periods indicated and the supporting schedules, if any, present fairly the information required to be stated therein. The audited balance sheet of the Company as of December 31, 2015 is referred to herein as the "**Balance Sheet**" and the date thereof as the "**Balance Sheet Date**" and the balance sheet of the Company as of September 30, 2016 is referred to herein as the "**Interim Balance Sheet**" and the date thereof as the "**Interim Balance Sheet Date**". The Company maintains a standard system of accounting established and administered in accordance with GAAP. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the SEC Documents fairly presents the information called for in all material respects and has been prepared in accordance with the SEC's rules and guidelines applicable thereto.

Section 3.11 Independent Accountants. Armanino LLP, who have certified certain consolidated financial statements of the Company and its Subsidiaries, are independent public accountants with respect to the Company and its Subsidiaries within the applicable rules and regulations adopted by the SEC and the Public Company Accounting Oversight Board (United States) and as required by the Securities Act.

Section 3.12 Undisclosed Liabilities. Except as set forth on Section 3.12 of the Disclosure Schedule, the Company has no liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise ("**Liabilities**"), except (a) those that are adequately reflected or reserved against in the Interim Balance Sheet as of the Interim Balance Sheet Date, and (b) those that have been incurred in the ordinary course of business consistent with past practice since the Interim Balance Sheet Date that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 3.13 Absence of Certain Changes, Events and Conditions. Since the Interim Balance Sheet Date, and other than in the ordinary course of business consistent with past practice, there has not been, with respect to the Company or any Subsidiary, any:

- (a) event, occurrence or development that has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;
- (b) amendment of the Certificate of Incorporation, the Bylaws or other organizational documents of the Company;
- (c) split, combination or reclassification of any shares of its capital stock;

- (d) issuance, sale or other disposition of any of its capital stock, or grant of any options, warrants or other rights to purchase or obtain (including upon conversion, exchange or exercise) any of its capital stock;
- (e) declaration or payment of any dividends or distributions on or in respect of any of its capital stock or redemption, purchase or acquisition of its capital stock;
- (f) material change in any method of accounting or accounting practice of the Company, except as required by GAAP or as disclosed in the notes to the Financial Statements;
- (g) incurrence, assumption or guarantee of any indebtedness for borrowed money except unsecured current obligations and Liabilities incurred in the ordinary course of business consistent with past practice;
- (h) transfer, assignment, sale or other disposition of any of the assets shown or reflected in the Balance Sheet or cancellation, discharge or payment of any material debts, liens or entitlements;
- (i) transfer, assignment or grant of any license or sublicense of any Intellectual Property Rights;
- (j) any capital investment in, or any loan to, any other Person;
- (k) acceleration, termination, material modification or amendment to or cancellation of any material contract to which the Company is a party or by which it is bound;
- (l) any material capital expenditures;
- (m) imposition of any Encumbrance upon any of the Company properties, capital stock or assets, tangible or intangible;
- (n) any mass layoff of employees or adoption, modification or termination of any: (i) material employment, severance, retention, change in control, or other Contract with any current or former employee, officer, director, independent contractor or consultant, (ii) Benefit Plan or (iii) collective bargaining, memorandum of understanding, or other Contract with a Union, in each case whether written or oral;
- (o) any loan to (or forgiveness of any loan to), or entry into any other transaction with, any of its stockholders, directors, officers and employees;
- (p) entry into a new line of business or abandonment or discontinuance of existing lines of business;
- (q) adoption of any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(r) acquisition by merger or consolidation with, or by purchase of a substantial portion of the assets or stock of, or by any other manner, any business or any Person or any division thereof; or

(s) entry into any contract to do any of the foregoing, or any action or omission that would result in any of the foregoing.

Section 3.14 Disclosure of Agreements. The agreements and documents described in the SEC Documents conform to the descriptions thereof contained therein and there are no agreements or other documents required by the Securities Act and the rules and regulations to be described therein or to be filed with the SEC that have not been so described or filed. Each agreement or other instrument (however characterized or described) to which the Company is a party or by which it is or may be bound or affected and (i) that is referred to in the SEC Documents, or (ii) is material to the Company's business, has been duly authorized and validly executed by the Company, is in full force and effect in all material respects and is enforceable against the Company and, to the Company's knowledge, the other parties thereto, in accordance with its terms, except (x) as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally, (y) as enforceability of any indemnification or contribution provision may be limited under the federal or state securities laws, and (z) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to the equitable defenses and to the discretion of the court before which any proceeding therefore may be brought. None of such agreements or instruments has been assigned by the Company, and neither the Company nor, to the Company's Knowledge, any other party is in default thereunder and, to the Company's Knowledge, no event has occurred that, with the lapse of time or the giving of notice, or both, would constitute a default thereunder. To the Company's Knowledge, performance by the Company of the material provisions of such agreements or instruments will not result in a violation of any existing applicable law, rule, regulation, judgment, order or decree of any governmental agency or court, domestic or foreign, having jurisdiction over the Company or any of its assets or businesses, including, without limitation, those relating to environmental laws and regulations.

Section 3.15 Title to Assets; Real Progeny.

(a) The Company has good and valid (and, in the case of owned Real Property, good and marketable fee simple) title to, or a valid leasehold interest in, all Real Property and personal property and other assets reflected in the Audited Financial Statements or acquired after the Interim Balance Sheet Date, other than properties and assets sold or otherwise disposed of in the ordinary course of business consistent with past practice since the Interim Balance Sheet Date. All such properties and assets (including leasehold interests) are free and clear of Encumbrances except for the following (collectively referred to as "**Permitted Encumbrances**"):

(i) those items set forth in Section 3.15(a) of the Disclosure Schedules;

(ii) liens for Taxes not yet due and payable or being contested in good faith by appropriate procedures and for which there are adequate accruals or reserves on the Interim Balance Sheet;

(iii) mechanics, carriers', workmen's, repairmen's or other like liens arising or incurred in the ordinary course of business consistent with past practice or amounts that are not delinquent and which are not, individually or in the aggregate, material to the business of the Company;

(iv) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property which are not, individually or in the aggregate, material to the business of the Company;

(v) liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business consistent with past practice which are not, individually or in the aggregate, material to the business of the Company; or

(vi) other imperfections of title or Encumbrances, if any, that individually or in the aggregate, have not had, and would not have, a Material Adverse Effect.

Section 3.16 Intellectual Property. Except as set forth in Section 3.16 of the Disclosure Schedules, the Company is the sole and exclusive owner, free and clear of Encumbrances other than Permitted Encumbrances, of all trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, original works, inventions, licenses, approvals, governmental authorizations, trade secrets and other intellectual property rights and all applications and registrations therefor (other than third party components licensed-in on a non-exclusive basis) ("**Intellectual Property Rights**") necessary to conduct its business as now conducted and as presently proposed to be conducted. Section 3.16 of the Disclosure Schedules lists all Intellectual Property Rights of the Company that have been registered, filed or otherwise perfected or recorded with or by any state, federal provincial, or foreign government or other legal authority, or any applications for any of the foregoing. To the Knowledge of the Company, there are no facts or information (including that which would constitute prior art) that would render any of the registered Intellectual Property Rights of the Company invalid or unenforceable in any material respect, or would affect any pending application for any material Intellectual Property Rights of the Company. The Company has not transferred ownership of, or granted any exclusive license with respect to, any of the Intellectual Property Rights that is or, as of the time of such transfer or exclusive license, was material to the Company, to any other Person. The Company has not infringed, nor conflicted with, the Intellectual Property Rights of others and, to the Knowledge of the Company, no Person is infringing upon the Company's Intellectual Property Rights. There is no claim, action or proceeding being made or brought, or to the Knowledge of the Company, being threatened, against the Company or any Subsidiary regarding their Intellectual Property Rights. The Company is not aware of any facts or circumstances that might reasonably give rise to any of the foregoing infringements or claims, actions or proceedings. The Company has taken reasonable steps required or necessary to protect the confidentiality of confidential information and trade secrets of the Company, and all current and former employees and consultants of the Company and all other individuals who have been involved for or on behalf of the Company in the creation, invention or development of the Company's Intellectual Property Rights have executed a customary form of proprietary information, confidentiality and invention assignment agreement.

Section 3.17 Insurance. The Company is covered by valid, outstanding and enforceable policies or binders of fire, liability, product liability, umbrella liability, pollution and other environmental, real and personal property, workers' compensation, vehicular, directors and officers' liability, fiduciary liability and other casualty and property insurance maintained by the Company or its Affiliates and relating to the assets, business, operations, employees, officers and directors of the Company (collectively, the "**Insurance Policies**"), and true and complete copies of such Insurance Policies have been made available to Purchaser. Such Insurance Policies are in full force and effect and none of the Insurance Policies will lapse or terminate following the consummation of the transactions contemplated by this Agreement. Neither the Company nor any of its Affiliates has received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. The Insurance Policies are of the type and in the amounts customarily carried by Persons conducting a business similar to the Company and are sufficient for compliance with all applicable Laws and Contracts to which the Company is a party or by which it is bound, except where such noncompliance would not result in a Material Adverse Effect. There are no claims related to the business of the Company pending under any such Insurance Policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights.

Section 3.18 Legal Proceedings; Governmental Orders.

(a) There are no material Actions pending or, to the Company's Knowledge, threatened against, or involving the Company or any of its Subsidiaries, or, to the Company's Knowledge, any executive officer or director of the Company, or by the Company or any of its Subsidiaries affecting any of its properties or assets (or by or against the Company or any Affiliate thereof and relating to the Company).

(b) There are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Company or any of its Subsidiaries or any of their properties or assets.

Section 3.19 Possession of Licenses and Permits. The Company and each of its Subsidiaries (A) possesses the licenses, permits, certificates, authorizations, consents and approvals (collectively, "**Governmental Licenses**") issued by the appropriate Governmental Authorities necessary to conduct its business as currently conducted as described in the SEC Documents, and (B) has obtained all necessary Governmental Licenses from other persons necessary to conduct its business, except, in each case of clauses (A) and (B), (i) as described in the SEC Documents or (ii) to the extent that any failure to possess any Governmental Licenses, provide any notice, make any filing, or obtain any Governmental Licenses would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; none of the Company and subsidiaries is in violation of, or in default under, any Governmental License, as except as would not reasonably be expected to have a Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, Neither the Company nor the Subsidiary has received any notice of proceedings relating to the revocation or modification of any Governmental Licenses which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a Material Adverse Effect.

Section 3.20 **Environmental Laws**. Except as described in the SEC Documents, (A) the Company and its subsidiaries are in compliance with Environmental Laws in all material respects, (B) each of the Company and its subsidiaries has all permits, authorizations and approvals required under any applicable Environmental Laws and is in compliance in all material respects with their requirements, (C) there are no pending or, to the Company's Knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations or proceedings relating to any Environmental Law against the Company or any subsidiary, and (D) to the Company's Knowledge, there are no events or circumstances that would reasonably be expected to form the basis of an order for clean-up or remediation, or an investigation, action, suit or proceeding by any private party or governmental body or agency, against or affecting the Company or any subsidiary relating to Hazardous Materials or any Environmental Laws.

Section 3.21 **Employee Benefit Matters**.

(a) **Section 3.21(a)** of the Disclosure Schedules contains a true and complete list of each pension, benefit, retirement, compensation, employment, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, phantom equity, stock or stock-based, change in control, retention, severance, vacation, paid time off, welfare, fringe-benefit and other similar agreement, plan, policy, program or arrangement (and any amendments thereto), in each case whether or not reduced to writing and whether funded or unfunded, including each "employee benefit plan" within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is or has been maintained, sponsored, contributed to, or required to be contributed to by the Company, or under which the Company or any of its ERISA Affiliates has Of may have any Liability, or with respect to which Purchaser or any of its Affiliates would reasonably be expected to have any Liability, contingent or otherwise (as listed on **Section 3.21(a)** of the Disclosure Schedules, each, a "**Benefit Plan**").

(b) With respect to each Benefit Plan, the Company has made available to Purchaser accurate, current and complete copies of each of the following: (i) where the Benefit Plan has been reduced to writing, the plan document together with all amendments; (ii) where the Benefit Plan has not been reduced to writing, a written summary of all material plan terms; (iii) where applicable, copies of any trust agreements or other funding arrangements, custodial agreements, insurance policies and contracts, administration agreements and similar agreements, and investment management or investment advisory agreements, now in effect or required in the future as a result of the transactions contemplated by this Agreement or otherwise; (iv) copies of any summary plan descriptions, summaries of material modifications, employee handbooks and any other written communications (or a description of any oral communications) relating to any Benefit Plan; (v) in the case of any Benefit Plan that is intended to be qualified under Section 401(a) of the Code, a copy of the most recent determination, opinion or advisory letter from the Internal Revenue Service; and (vi) in the case of any Benefit Plan for which a Form 5500 is required to be filed, a copy of the most recently filed Forms 5500, with schedules and financial statements attached.

(c) Each Benefit Plan and related trust has been established, administered and maintained in accordance with its terms and in compliance with all applicable Laws (including ERISA, the Code and any applicable state or local Laws).

(d) Neither the Company nor any of its ERISA Affiliates has (i) incurred or reasonably expects to incur, either directly or indirectly, any material Liability under Title I or Title IV of ERISA or related provisions of the Code or applicable local Law relating to employee benefit plans; (ii) failed to timely pay premiums to the Pension Benefit Guaranty Corporation; (iii) withdrawn from any Benefit Plan; or (iv) engaged in any transaction that would give rise to liability under Section 4069 or Section 4212(c) of ERISA.

(e) With respect to each Benefit Plan (i) no such plan is a Multiemployer Plan; (ii) no such plan is a “multiple employer plan” within the meaning of Section 413(c) of the Code or a “multiple employer welfare arrangement” (as defined in Section 3(40) of ERISA); and (iii) no such plan is subject to the minimum funding standards of Section 412 of the Code or Title IV of ERISA.

(f) Other than as required under Section 601 et. seq. of ERISA or other applicable Law, no Benefit Plan or other arrangement provides post-termination or retiree welfare benefits to any individual for any reason.

(g) There is no pending or, to the Company’s Knowledge, threatened Action relating to a Benefit Plan (other than routine claims for benefits), and no Benefit Plan has within the three years prior to the date hereof been the subject of an examination or audit by a Governmental Authority or the subject of an application or filing under, or is a participant in, an amnesty, voluntary compliance, self-correction or similar program sponsored by any Governmental Authority.

(h) Each Benefit Plan that is subject to Section 409A of the Code has been administered in compliance with its terms and the operational and documentary requirements of Section 409A of the Code and all applicable regulatory guidance (including notices, rulings and proposed and final regulations) thereunder. The Company does not have any obligation to gross up, indemnify or otherwise reimburse any individual for any excise taxes, interest or penalties incurred pursuant to Section 409A of the Code.

(i) Neither the execution of this Agreement nor any of the transactions contemplated by this Agreement will (either alone or upon the occurrence of any additional or subsequent events): (i) entitle any current or former director, officer, employee, independent contractor or consultant of the Company to severance pay or any other payment; (ii) accelerate the time of payment, funding or vesting, or increase the amount of compensation due to any such individual; (iii) increase the amount payable under or result in any other material obligation pursuant to any Benefit Plan; (iv) result in “excess parachute payments” within the meaning of Section 2800(b) of the Code; or (v) require a “gross-up” or other payment to any “disqualified individual” within the meaning of Section 280G(c) of the Code.

Section 3.22 Employment Matters.

(a) The Company is not involved in any strike, labor dispute, work stoppage, work slowdown, lockout, or similar labor matter or, to the Knowledge of the Company, is any such dispute, slowdown, lockout or other matter threatened. To the Knowledge of the Company, none of the Company's employees is a member of a union, works council or labor organization. There are no labor agreements, collective bargaining agreements, or other labor Contracts applicable to any employees of the Company or by which the Company is bound, and no discussions or negotiations have occurred with respect thereto by the Company any Union within the prior four years.

(b) No employees of the Company are represented by any Union and no Union claims to represent a majority of any employees of the Company in a bargaining unit of any of the Company.

(c) There are no current or, to the Company's Knowledge, threatened representational campaigns or other organizing activities by any Union seeking to become the collective bargaining representative of any employees of the Company, and there is no Union or labor organization representation question or certification petition against the Company pending or, to the Company's Knowledge, threatened before the National Labor Relations Board or any similar Governmental Authority.

(d) The Company is and has been in compliance in all material respects with all applicable Laws pertaining to employment and employment practices, including all Laws relating to labor relations, equal employment opportunities, fair employment practices, terms and conditions of employment, employment discrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, worker classification as exempt or non-exempt and as employee rather than independent contractor, employment-related immigration and authorization to work in the United States, wages, hours, employee benefits, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, occupational health and safety, notice of plant closings or mass layoffs, affirmative action, employee waivers of liability, workers' compensation, leaves of absence and unemployment insurance (collectively "**Employment Laws**").

(e) All individuals characterized and treated by the Company as independent contractors or consultants are properly treated and classified as independent contractors under all applicable Employment Laws. All employees classified as exempt under applicable Employment Laws, including the Fair Labor Standards Act and state and local wage and hour Laws, are properly classified in all material respects.

(f) There are no pending or, to the Company's Knowledge, threatened investigations, charges, complaints, Actions, suits or judicial, administrative, or arbitral proceedings of any kind and in any forum by or on behalf of any employee or former employee of the Company, applicant for employment, Person claiming to be an employee, or any classes of the foregoing, against the Company alleging a violation of, or compliance with, any express or implied contract of employment or any Employment Laws.

(g) The Company is not currently engaged in, and has not engaged in, any unfair labor practices regarding any employees of the Company and there is no pending or, to the Company's Knowledge, threatened proceeding involving any unfair labor practices regarding any employees of the Company before the National Labor Relations Board or any similar Governmental Authority, nor are there any actual or threatened grievances or arbitration proceedings arising out of or under any collective bargaining agreement pending against the Company.

(h) The Company has timely paid or properly accrued for all wages, salaries, commissions, bonuses, severance pay, vacation pay and other paid time off, benefits, and any other compensation or remuneration owed to employees of the Company for or on account of employment.

(i) Within the previous four years, the Company has not experienced a "plant closing" or "mass layoff" as defined by the Worker Adjustment and Retraining Notification Act ("WARN") or been required to provide any notice, pay, or benefits to employees or former employees under any other applicable Law governing mass layoffs and, with respect to any such "plant closing" or "mass layoff," the Company has complied with the notice requirements of WARN and applicable Law.

(j) No severance payment, stay-on or incentive payment, change-in-control payment, vacation or other paid leave payment, or similar payment or obligation will be owed by the Company to any of its directors, officers, employees, agents, contractors, consultants: or any other Person upon consummation of, or as a result of, the transactions contemplated by this Agreement, nor will any such director, officer, employee, agent, contractor, consultant, or any other Person be entitled to any such payments a result of the transactions contemplated by this Agreement in the event of the termination of his or her employment or relationship.

Section 3.23 No Registration Required. Assuming the accuracy of the representations and warranties of Purchaser contained in this Agreement, the sale and issuance of the shares pursuant to this Agreement is exempt from the registration requirements of the Securities Act, and neither the Company nor, to the Company's knowledge, any authorized Representative acting on its behalf has taken or will take any action hereafter that would cause the loss of such exemption.

Section 3.24 No Integration. Neither the Company nor any of its Affiliates has, directly or indirectly through any agent, made any offers or sales of any security of the Company or solicited any offers to buy any security that is or will be integrated with the sale of the Shares in a manner that would require such registration under the Securities Act.

Section 3.25 No Side Agreements. There are no agreements by the Company, on the one hand, and Purchaser or any of their Affiliates, on the other hand, with respect to the transactions contemplated hereby other than the Transaction Documents, nor promises or inducements for future transactions between or among any of such parties.

Section 3.26 **NASDAQ Listing of Shares**. As of the Closing Date, the Shares will be approved for listing, subject to official notice of issuance, on the NASDAQ Capital Market.

Section 3.27 **Taxes**. Except as set forth in Section 3.27 of the Disclosure Schedules:

(a) The Company has timely filed all Tax Returns that it was required to file. All such Tax Returns were complete and correct in all respects. All Taxes due and owing by the Company (whether or not shown on any Tax Return) have been timely paid.

(b) The Company has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, stockholder or other party, and complied with all information reporting and backup withholding provisions of applicable Law,

(c) No extensions or waivers of statutes of limitations have been given or requested with respect to any Taxes of the Company.

(d) All deficiencies asserted, or assessments made, against the Company as a result of any examinations by any taxing authority have been fully paid.

(e) The Company is not a party to any Action by any taxing authority. There are no pending or threatened Actions by any taxing authority.

(f) The Company has not been a member of an affiliated, combined, consolidated or unitary Tax group for Tax purposes. The Company has no Liability for Taxes of any Person (other than the Company) under Treasury Regulations Section 1.1502-6 (or any corresponding provision of state, local or foreign Law), as transferee or successor, by contract or otherwise.

Section 3.28 **Books and Records**. The minute books and stock record books of the Company, all of which have been made available to Purchaser, are complete and correct and have been maintained in accordance with sound business practices. The minute books of the Company contain, in all material respects, accurate and complete records of all meetings, and actions taken by written consent of, the stockholders, the board of directors and any committees of the board of directors of the Company, and no meeting, or action taken by written consent, of any such stockholders, board of directors or committee has been held for which minutes have not been prepared and are not contained in such minute books.

Section 3.29 **Brokers**. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of the Company.

Section 3.30 **Related Party Transactions**. Except as disclosed in the SEC Documents, there are no business relationships or related party transactions involving the Company or any other person required to be described in the SEC Documents that have not been described as required.

Section 3.31 Money Laundering Laws. The Company has not, and, to the Company's Knowledge, none of the officers, directors, employees or agents purporting to act on behalf of the Company or one of its Subsidiaries, as applicable, has, made any payment of funds of the Company or one of its Subsidiaries or received or retained any funds in violation of any law, rule or regulation relating to the "know your customer" and anti-money laundering laws of any jurisdiction (collectively, the "**Money Laundering Laws**") and no action, suit or proceeding by or before any Governmental Authority involving the Company or one of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the Company's Knowledge, threatened.

Section 3.32 OFAC. The Company has not, and, to the Company's Knowledge, none of the respective directors, officers, agents or employees purporting to act on behalf of the Company or one of its Subsidiaries, as applicable, is currently the target of or reasonably likely to become the target of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**"); and the Company and its Subsidiaries will not directly or indirectly use the proceeds of the sale of the Shares hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently the target of any U.S. sanctions administered by OFAC.

Section 3.33 Investment Company Act. The Company is not, nor upon the sale of the Shares as contemplated herein and the application of the net proceeds therefrom, will the Company be, an "investment company" or an entity "controlled" by an "investment company" (as such terms are defined in the Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder).

Section 3.34 Foreign Corrupt Practices Act. Neither the Company nor any of the directors, employees or officers of the Company or, to the Company's Knowledge, any other person acting on behalf of the Company has, directly or indirectly, given or agreed to give any money, gift or similar benefit (other than legal price concessions to customers in the ordinary course of business) to any customer, supplier, employee or agent of a customer or supplier, or official or employee of any governmental agency or instrumentality of any government (domestic or foreign) or any political party or candidate for office (domestic or foreign) or any political party or candidate for office (domestic or foreign) or other person who was, is, or may be in a position to help or hinder the business of the Company (or assist it in connection with any actual or proposed transaction) that (i) might subject the Company to any damage or penalty in any civil, criminal or governmental litigation or proceeding, (ii) if not given in the past, might have had a Material Adverse Effect as reflected in any of the Financial Statements or (iii) if not continued in the future, might have a Material Adverse Effect. The Company has taken reasonable steps to ensure that its accounting controls and procedures are sufficient to cause the Company to comply in all material respects with the Foreign Corrupt Practices Act of 1977, as amended.

Section 3.35 Officer's Certificate. Any certificate pursuant to this Agreement signed by any duly authorized officer of the Company and delivered to Purchaser shall be deemed a representation and warranty by the Company to Purchaser as to the matters covered thereby.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to the Company that the statements contained in this Article IV are true and correct as of the date hereof.

Section 4.01 Organization and Authority of Purchaser. Purchaser is an indirect, wholly-owned subsidiary of Johnson Controls International plc, and is a company duly organized, validly existing and in good standing under the Laws of Luxembourg. Purchaser has full power and authority to enter into this Agreement and the other Transaction Documents to which Purchaser is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Purchaser of this Agreement and any other Transaction Document to which Purchaser is a party, the performance by Purchaser of its obligations hereunder and under the other Transaction Documents to which Purchaser is a party, and the consummation by Purchaser of the transactions contemplated hereby and by the other Transaction Documents to which Purchaser is a party, have been duly authorized by all requisite corporate action on the part of Purchaser. This Agreement has been duly executed and delivered by Purchaser, and (assuming due authorization, execution and delivery by the Company of this Agreement) this Agreement party constitutes a legal, valid and binding obligation of Purchaser enforceable against Purchaser in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, usury and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. When each other Transaction Document to which Purchaser is or will be a party has been duly executed and delivered by Purchaser (assuming due authorization, execution and delivery by each other party thereto), such Transaction Document will constitute a legal and binding obligation of Purchaser enforceable against it in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, usury and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

Section 4.02 No Conflicts; Consents. The execution, delivery and performance by Purchaser of this Agreement and the other Transaction Documents to which Purchaser is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the organizational documents of Purchaser; (b) conflict with or result in a violation or breach of any provision of any Law or Governmental Order applicable to Purchaser; or (c) require the consent, notice or other action by any Person under any Contract to which Purchaser is a party. No consent, approval, Permit, Governmental Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Purchaser in connection with the execution and delivery of this Agreement and the other Transaction Documents to which Purchaser is a party and the consummation of the transactions contemplated hereby and by the other Transaction Documents to which Purchaser is a party.

Section 4.03 **Investment Purpose.** Purchaser is acquiring the Shares solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any distribution thereof. Purchaser acknowledges that the Shares are not registered under the Securities Act of 1933, as amended, or any state securities laws, and that the Shares may not be transferred or sold except pursuant to the registration provisions of the Securities Act of 1933, as amended, or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable.

Section 4.04 **Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser.

Section 4.05 **Legend.** Purchaser understands that the book entry evidencing the Shares will bear the following legend: "THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY STATE SECURITIES OR BLUE SKY LAWS. THE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE OFFERED, SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES OR BLUE SKY LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. THE COMPANY MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE COMPANY TO THE EFFECT THAT ANY PROPOSED TRANSFER IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES OR BLUE SKY LAWS."

Section 4.06 **Accredited investor Status.** Purchaser is an "accredited investor" as that term is defined in Rule 501(e) of Regulation D, as promulgated under the Securities Act.

ARTICLE V CONDITIONS TO CLOSING

Section 5.01 **Conditions to Obligations of All Parties.** The obligations of each party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions;

(a) No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Governmental Order which is in effect and has the effect of making the transactions contemplated by this Agreement Illegal, otherwise restraining or prohibiting consummation of such transactions or causing any of the transactions contemplated hereunder to be, rescinded following completion thereof.

(b) This Agreement and each of the other Transaction Documents shall have been executed and delivered by the parties thereto and true and complete copies thereof shall have been delivered to the parties.

Section 5.02 **Conditions to Obligations of Purchaser.** The obligations of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or Purchaser's waiver, at or prior to the Closing, of each of the following conditions:

(a) The Company shall have obtained all governmental, regulatory or third party consents and approvals necessary for the sale of the Shares.

(b) Purchaser shall have received a certificate duly executed by the President and Chief Executive Officer of the Company, dated as of the Closing Date, certifying:

(i) all representations and warranties of the Company shall be true and correct as of the Closing Date, with the same force and effect as though made on and as of the Closing Date, and

(ii) the Company shall have performed all obligations and agreements and complied with all covenants and conditions contained in this Agreement to be performed or complied with by it as of or prior to the Closing Date.

(c) Purchaser shall have received a certificate duly executed by the secretary or an assistant secretary (or equivalent officer) of the Company, dated as of the Closing Date, certifying:

(i) that attached thereto are true and complete copies of all resolutions and other consents adopted by the board of directors and stockholders of the Company authorizing and approving the execution, delivery, filing and performance of this Agreement and the other Transaction Documents to which Purchaser is a party and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions and consents are in full force and effect as of the Closing Date and are all the resolutions and consents adopted in connection with the transactions contemplated hereby and thereby;

(ii) that attached thereto are true and complete copies of the Certificate of Incorporation and Bylaws of the Company and that such organizational documents are in full force and effect as of the Closing Date; and

(iii) the names and signatures of the officers of the Company authorized to sign this Agreement, the Transaction Documents and the other documents to be delivered hereunder and thereunder.

(d) The Company shall have delivered to Purchaser (i) a good standing certificate (or its equivalent) for the Company and each of the Subsidiaries from the secretary of state of the State of Delaware and (ii) a foreign qualification certificate (or its equivalent) for the Company and each of the Subsidiaries from the secretary of state or similar Governmental Authority of each jurisdiction in which the Company has qualified, or is required to qualify, to do business as a foreign corporation.

(e) The Company shall have delivered, or caused to be delivered, to Purchaser each of the following, each in form and substance satisfactory to Purchaser:

(i) evidence of the Shares credited to book-entry accounts maintained by the Transfer Agent, bearing the legend or restrictive notation set forth in Section 4.05 of this Agreement, free and clear of all Encumbrances, other than transfer restrictions under the Transaction Documents, the Bylaws and applicable federal and state securities laws;

(ii) an opinion of legal counsel to the Company, dated as of the Closing Date, satisfactory to Purchaser; and

(iii) such other documents or instruments as Purchaser reasonably requests and are reasonably necessary to consummate the transactions contemplated by this Agreement.

(f) The Company shall have fully complied with, or obtained appropriate consents or waivers with respect to, its obligations under each of the agreements or other documents identified on Section 3.02(c) of the Disclosure Schedules, including with respect to any outstanding rights of first refusal, rights of first offer, pre-emptive rights or anti-dilution rights or redemption or repurchase rights.

(g) The NASDAQ shall have authorized, upon official notice of issuance, the listing of the Shares.

(h) No notice of delisting from the NASDAQ shall have been received by the Company with respect to the Shares.

(i) The Shares shall not have been suspended by the SEC or the NASDAQ from trading on the NASDAQ nor shall suspension by the SEC or the NASDAQ have been threatened in writing by the SEC or the NASDAQ.

Section 5.03 **Conditions to Obligations of the Company.** The obligations of the Company to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment or the Company's waiver, at or prior to the Closing, of each of the following conditions:

(a) The Company shall have received a certificate duly executed by an officer or director of Purchaser, dated as of the Closing Date, certifying:

(i) all representations and warranties of Purchaser shall be true and correct in all material respects as of the date hereof and at and as of the Closing Date, with the same force and effect as though made on and as of the Closing Date; and

(ii) Purchaser shall have performed all obligations and agreements and complied with all covenants and conditions contained in this Agreement to be performed or complied with by it prior to the Closing Date.

(b) Purchaser shall have delivered to the Company cash in an amount equal to the Purchase Price by wire transfer in immediately available funds, to an account or accounts designated in writing by the Company to Purchaser.

ARTICLE VI COVENANTS

Section 6.01 **Taking of Necessary Action.** Each of the parties hereto shall use its commercially reasonable efforts promptly to take or cause to be taken all action and promptly to do or cause to be done all things necessary, proper or advisable under applicable Law and regulations to consummate and make effective the transactions contemplated by this Agreement and the other Transaction Documents to which it is a party. Without limiting the foregoing, the Company and Purchaser shall each use its commercially reasonable efforts to make all filings and obtain all consents of Governmental Authorities that may be necessary or, in the reasonable opinion of the other parties, as the case may be, advisable for the consummation of the transactions contemplated by this Agreement or the other Transaction Documents to which it is a party. The Company shall promptly and accurately respond, and shall use its commercially reasonable efforts to cause its transfer agent to respond, to reasonable requests for information (which is otherwise not publicly available) made by Purchaser or its auditors relating to the actual holdings of Purchaser or its accounts; provided, that the Company shall not be obligated to provide any such information that could reasonably result in a violation of applicable Law or conflict with the Company's insider trading policy or a confidentiality obligation of the Company. The Company shall use its commercially reasonable efforts to cause its transfer agent to reasonably cooperate with Purchaser to ensure that the Shares are validly and effectively issued to Purchaser and that Purchaser's ownership of the Shares following the Closing is accurately reflected on the appropriate books and records of the Company's transfer agent.

Section 6.02 **Supplemental Listing Application.** The Company shall file prior to the Closing a supplemental listing application with the NASDAQ to list the Shares.

Section 6.03 **Further Assurances.** Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement,

ARTICLE VII INDEMNIFICATION

Section 7.01 **Survival.** Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is two (2) years from the Closing Date; provided, however, that (i) the representations and warranties in Section 3.01, Section 3.02 and Section 3.03 shall survive indefinitely, and (ii) the representations and warranties in Section 3.16, Section 3.20, Section 3.21, Section 3.22, Section 3.27 and Section 3.29 shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension thereof) plus 60 days. All covenants and agreements of the parties contained herein shall survive the Closing indefinitely or for the period explicitly specified therein. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

Section 7.02 **Indemnification by Company.** Subject to the other terms and conditions of this Article VII, the Company shall indemnify and defend each of Purchaser and its Affiliates and their respective Representatives (collectively, the "**Purchaser Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Purchaser Indemnitees based upon, arising out of, with respect to or by reason of:

(a) any inaccuracy in or breach of any of the representations or warranties of the Company contained in this Agreement or in any certificate or instrument delivered by or on behalf of the Company pursuant to this Agreement; or

(b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by the Company pursuant to this Agreement.

The indemnity contained in this Section 7.02 shall not apply to amounts paid in settlement of any Loss if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing sentence, if at any time any Purchaser Indemnitee shall have requested the Company to reimburse such Purchaser Indemnitee for any Loss as contemplated by this Section 7.02, the Company agrees that it shall be liable for any settlement of Loss effected without its written consent if (i) such settlement is entered into more than 60 days after receipt by the Company of the aforesaid request and (ii) the Company shall not have reimbursed the Purchaser Indemnitee in accordance with such request or disputed in good faith the Purchaser Indemnitee's entitlement to such reimbursement prior to the date of such settlement.

Section 7.03 Payments. Once a Loss is agreed to by the Company or finally adjudicated to be payable pursuant to this Article VII, the Company shall satisfy its obligations within fifteen (15) Business Days of such final, non-appealable adjudication by wire transfer of immediately available funds. The parties hereto agree that should the Company not make full payment of any such obligations within such fifteen (15) Business Day period, any amount payable shall accrue interest from and including the date of agreement of the Company or final, non-appealable adjudication to the date such payment has been made at a rate of 18% per annum. Such interest shall be calculated daily on the basis of a 365-day year and the actual number of days elapsed.

Section 7.04 Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

Section 7.05 Effect of Investigation. Neither the representations, warranties and covenants of the Company, nor the right to indemnification of any Purchaser Indemnitee making a claim under this Article VII with respect thereto, shall be affected or deemed waived by reason of any investigation made by or on behalf of a Purchaser Indemnitee (including by any of its Representatives) or by reason of the fact that a Purchaser Indemnitee or any of its Representatives knew or should have known that any such representation or warranty is, was or might be inaccurate or by reason of a Purchaser Indemnitee's waiver of any condition set forth in Section 5.02.

Section 7.06 **Exclusive Remedies.** Subject to Section 8.12, the parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims (other than claims arising from fraud, criminal activity or willful misconduct on the part of a party hereto in connection with the transactions contemplated by this Agreement) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article VII. In furtherance of the foregoing, each party hereby waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other parties hereto and their Affiliates and each of their respective Representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article VII, Nothing in this Section 7.06 shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled or to seek any remedy on account of any party's fraudulent, criminal or intentional misconduct.

ARTICLE VIII MISCELLANEOUS

Section 8.01 **Expenses.** The parties hereby agree that, (i) prior to the execution and delivery of this Agreement and each of the other Transaction Documents, each party will bear its own costs and expenses, including, without limitation, costs incurred for due diligence, except to the extent as otherwise provided herein or therein; and (ii) upon the execution and delivery of this Agreement and the other Transaction Documents, the Company shall reimburse the Investor for all expenses incurred by Investor (and any Affiliate that is a party to such Transaction Documents) in connection with the transactions contemplated therein and thereby; provided, however, that notwithstanding the foregoing, the Company's reimbursement obligation for the expenses incurred by the Investor in connection with the transactions contemplated herein shall be capped at \$100,000.

Section 8.02 **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 8.02):

If to the Company:

1010 Atlantic Avenue
Alameda, California 94501
E-mail: Steve.Clarke@aquametals.com
Attention: Stephen R. Clarke

with a copy to:

Greenberg Traurig, LLP
3161 Michelson Drive, Suite 1000
Irvine, California 92612
E-mail: donahued@gtlaw.com
Attention: Daniel K. Donahue, Esq.

If to Purchaser:

Tyco International Finance S.A.
c/o Johnson Controls International plc
5757 N. Green Bay Avenue
Milwaukee, WI 53209
E-mail: CO-General.Counsel@jci.com
Attention: General Counsel

with a copy to:

Goodwin Procter LLP
3 Embarcadero Center
San Francisco, CA 94111
E-mail: hkemp@goodwinlaw.com
Attention: J. Hovey Kemp

Section 8.03 Interpretation. For purposes of this Agreement, (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Disclosure Schedules and Exhibits mean the Articles and Sections of, and Disclosure Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Disclosure Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

Section 8.04 Removal of Legend. The Company, at its sole cost, shall remove the legend described in Section 4.05 (or instruct its transfer agent to so remove such legend) from the certificates evidencing the Shares issued and sold to Purchaser pursuant to this Agreement if (A) such Shares are sold pursuant to an effective registration statement under the Securities Act, (B) such Shares are sold or transferred pursuant to Rule 144 (if the transferor is not an Affiliate of the Company), or (C) such Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144(c)(1) (or Rule 144(i)(2), if applicable) as to such securities and without volume or manner of sale restrictions. In connection with a sale of the Shares by Purchaser in reliance on Rule 144, Purchaser or its broker shall deliver to the transfer agent and the Company a customary broker representation letter providing to the transfer agent and the Company any information the Company deems reasonably necessary to determine that the sale of the Shares is made in compliance with Rule 144, including, where and as may be appropriate, a certification that the Purchaser is not an Affiliate of the Company and regarding the length of time the Shares have been held. Upon receipt of such representation letter, the Company shall promptly direct its transfer agent to remove the legend referred to in Section 4.05 within two (2) Business Days from the appropriate book-entry accounts maintained by the transfer agent, and the Company shall bear all costs associated therewith. If Purchaser is not an Affiliate of the Company and has held the Shares for at least one year, if the book-entry account of such Shares still bears the legend referred to in Section 4.05, the Company agrees, upon request of Purchaser, to take all steps necessary to effect the removal of the legend described in Section 4.05 within two (2) Business Days from the appropriate book-entry accounts maintained by the transfer agent, and the Company shall bear all costs associated therewith, regardless of whether the request is made in connection with a sale or otherwise, so long as Purchaser provides to the Company any information the Company deems reasonably necessary to determine that the legend is no longer required under the Securities Act or applicable state laws, including (if there is no such registration statement), where and as may be appropriate, a certification that the holder is not an Affiliate of the Company and regarding the length of time the Shares have been held. The date by which such legend is so required to be removed pursuant to this Section 8.04 is referred to herein as the “**Required Legend Removal Date.**”

Section 8.05 **Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 8.06 **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 8.07 **Entire Agreement.** This Agreement and the other Transaction Documents to which Purchaser is a party constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents to which Purchaser is a party, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control

Section 8.08 **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided, that prior to the Closing Date, Purchaser may, without the prior written consent of the Company, assign all or any portion of its rights under this Agreement to one or more of its direct or indirect wholly-owned subsidiaries. No assignment shall relieve the assigning party of any of its obligations hereunder.

Section 8.09 **No Third-party Beneficiaries.** Except as provided in Article VII, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 8.10 **Amendment and Modification; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 8.11 **Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.**

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS TO WHICH PURCHASER IS A PARTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR BY THE OTHER TRANSACTION DOCUMENTS TO WHICH PURCHASER IS A PARTY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF WISCONSIN IN EACH CASE LOCATED IN THE CITY OF MILWAUKEE AND COUNTY OF MILWAUKEE, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS TO WHICH PURCHASER IS A PARTY IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS TO WHICH PURCHASER IS A PARTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR BY THE OTHER TRANSACTION DOCUMENTS TO WHICH PURCHASER IS A PARTY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8.10(c).

Section 8.12 Specific Performance. The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

Section 8.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 8.14 Termination.

(a) Notwithstanding anything herein to the contrary, this Agreement may be terminated at any time at or prior to the Closing by Purchaser (with respect to Purchaser only), upon a breach in any material respect by the Company of any covenant or agreement set forth in this Agreement.

(b) Notwithstanding anything herein to the contrary, this Agreement shall automatically terminate at any time at or prior to the Closing if a statute, rule, order, decree or regulation shall have been enacted or promulgated, or if any action shall have been taken by any Governmental Authority of competent jurisdiction that permanently restrains, permanently precludes, permanently enjoins or otherwise permanently prohibits the consummation of the transactions contemplated by this Agreement or makes the transactions contemplated by this Agreement illegal.

(c) In the event of the termination of this Agreement as provided in this Section 8.14, this Agreement shall forthwith become null and void. In the event of such termination, there shall be no liability on the part of any party hereto, except as set forth in Article VI of this Agreement.

Section 8.15 Recapitalization, Exchange, etc. The provisions of this Agreement shall apply to the full extent set forth herein with respect to any and all equity interests of the Company or any successor or assign of the Company (whether by merger, consolidation, sale of assets or otherwise) that may be issued in respect of, in exchange for or in substitution of, the Shares, and shall be appropriately adjusted for combinations, unit splits, recapitalizations and the like occurring after the date of this Agreement.

Section 8.16 Failure to Timely Deliver; Buy-In. If the Company improperly fails to remove the legend referred to in Section 4.05 by the Required Legend Removal Date and if on or after the Business Day immediately following the Required Legend Removal Date the Purchaser (or any other Person in respect, or on behalf, of Purchaser) purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock, that such Purchaser so anticipated receiving from the Company without any restrictive legend, then, in addition to all other remedies available to such Purchaser, the Company shall, within five (5) Business Days after such Purchaser's request and in such Purchaser's sole discretion, either (x) pay cash to such Purchaser in an amount equal to such Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "**Buy-In Price**"), at which point the Company's obligation to so deliver such certificate or credit such Purchaser's balance account shall terminate and such shares shall be cancelled, or (y) promptly honor its obligation to remove the legend referred to in Section 4.05 from such number of shares of Common Stock that would have been so delivered if the Company timely complied with its obligations hereunder and pay cash to such Purchaser in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of Shares that the Company was required to deliver to such Purchaser by the Required Legend Removal Date multiplied by (B) the lowest closing sale price of the Common Stock on any Business Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Shares and ending on the date of such delivery and payment under this clause (y).

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

COMPANY:

AQUA METALS, INC.

By: /s/ Stephen R. Clarke
Stephen R. Clarke
Chief Executive Officer

PURCHASER:

TYCO INTERNATIONAL FINANCE S.A.

By: /s/ Peter Schieser
Peter Schieser
Managing Director

[SIGNATURE PAGE TO STOCK PURCHASE AGREEMENT]

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

Section 302 Certification

I, Stephen R. Clarke, certify that:

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

Date: May 10, 2017

By: /s/ Stephen R. Clarke
Stephen R. Clarke, President and Chief Executive Officer

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

Section 302 Certification

I, Thomas Murphy, certify that:

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

Date: May 10, 2017

By: /s/ Thomas Murphy
Thomas Murphy, Chief Financial Officer

CERTIFICATION PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Aqua Metals, Inc. (the "Company") on Form 10-Q for the quarterly period ended March 31, 2017, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Stephen R. Clarke, President and Chief Executive Officer, and Thomas Murphy, Chief Financial Officer, of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

By: /s/ Stephen R. Clarke Dated: May 10, 2017
Stephen R. Clarke
Title: President and Chief Executive Officer

By: /s/ Thomas Murphy Dated: May 10, 2017
Thomas Murphy
Title: Chief Financial Officer

This certification is made solely for the purposes of 18 U.S.C. Section 1350, subject to the knowledge standard contained therein, and not for any other purpose.
