
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, 2018

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, a smaller reporting company or an emerging growth 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 7, 2018, there were 28,694,210 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)

ASSETS

	March 31, 2018 (unaudited)	December 31, 2017 (Note 2)
Current assets		
Cash and cash equivalents	\$ 17,497	\$ 22,793
Accounts receivable	1,327	882
Inventory	933	1,239
Prepaid expenses and other current assets	638	770
Total current assets	<u>20,395</u>	<u>25,684</u>
Non-current assets		
Property and equipment, net	46,583	45,733
Intellectual property, net	1,414	1,461
Other assets	1,564	1,564
Total non-current assets	<u>49,561</u>	<u>48,758</u>
Total assets	<u>\$ 69,956</u>	<u>\$ 74,442</u>

LIABILITIES AND STOCKHOLDERS' EQUITY

Current liabilities		
Accounts payable	\$ 2,084	\$ 1,436
Accrued expenses	1,671	1,801
Deferred rent, current portion	196	192
Notes payable, current portion	<u>382</u>	<u>405</u>
Total current liabilities	4,333	3,834
Deferred rent, non-current portion	722	771
Asset retirement obligation	712	701
Notes payable, non-current portion	8,763	8,839
Convertible note payable, non-current portion	<u>1,742</u>	<u>1,332</u>
Total liabilities	16,272	15,477
Commitments and contingencies		
Stockholders' equity		
Common stock; \$0.001 par value; 50,000,000 shares authorized; 28,694,210 and 27,554,076 shares issued and outstanding as of March 31, 2018 and December 31, 2017, respectively	29	27
Additional paid-in capital	116,029	113,780
Accumulated deficit	<u>(62,374)</u>	<u>(54,842)</u>
Total stockholders' equity	<u>53,684</u>	<u>58,965</u>
Total liabilities and stockholders' equity	<u>\$ 69,956</u>	<u>\$ 74,442</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,	
	2018	2017
Product sales	\$ 1,726	\$ —
Operating cost and expense		
Cost of product sales	5,436	—
Research and development cost	1,475	2,987
General and administrative expense	1,775	1,528
Total operating expense	8,686	4,515
Loss from operations	(6,960)	(4,515)
Other income and expense		
Interest expense	(587)	(388)
Interest and other income	17	11
Total other income (expense), net	(570)	(377)
Loss before income tax expense	(7,530)	(4,892)
Income tax expense	(2)	(2)
Net loss	\$ (7,532)	\$ (4,894)
Weighted average shares outstanding, basic and diluted	27,768,008	18,792,850
Basic and diluted net loss per share	\$ (0.27)	\$ (0.26)

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,	
	2018	2017
Cash flows from operating activities:		
Net loss	\$ (7,532)	\$ (4,894)
Reconciliation of net loss to net cash used in operating activities		
Depreciation	778	665
Amortization of intellectual property	47	36
Accretion of asset retirement obligation	11	—
Stock based compensation	144	161
Amortization of debt discount	235	42
Amortization of deferred financing costs	21	22
Non-cash convertible note interest expense	163	146
Inventory write down	39	—
Changes in operating assets and liabilities		
Accounts receivable	(444)	—
Inventory	267	(238)
Prepaid expenses and other current assets	132	(301)
Accounts payable	144	307
Accrued expenses	83	(53)
Deferred rent	(46)	(43)
Net cash used in operating activities	(5,958)	(4,150)
Cash flows from investing activities:		
Purchases of property and equipment	(1,337)	(2,232)
Other assets	—	(45)
Intellectual property related expenditures	—	(43)
Net cash used in investing activities	(1,337)	(2,320)
Cash flows from financing activities:		
Proceeds from issuance of common stock, net of transaction costs	2,107	10,654
Payments on notes payable	(69)	(44)
Payments on capital leases	(39)	(33)
Net cash provided by financing activities	1,999	10,577
Net (decrease) increase in cash, cash equivalents and restricted cash	(5,296)	4,107
Cash, cash equivalents and restricted cash at beginning of period	22,793	26,582
Cash, cash equivalents and restricted cash at end of period	\$ 17,497	\$ 30,689
	Three months ended March 31,	
	2018	2017
Supplemental disclosure of non-cash transactions		
Change in property and equipment resulting from change in accounts payable	\$ 504	\$ 761
Change in property and equipment resulting from change in accrued expenses	\$ (213)	\$ (768)
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 engaged in the business of lead recycling through its patent-pending AquaRefiningTM technology. Unlike smelting, AquaRefining is a room temperature, water-based process that is fundamentally non-polluting. The Company has built its first recycling facility in Nevada’s Tahoe Regional Industrial Complex and intends to pursue the development of additional lead acid battery recycling facilities, both directly and through licensing or joint development arrangements. The Company commenced the shipment of products for sale, consisting of lead compounds and plastics in April 2017 and through March 31, 2018, substantially all revenue has been derived from the sale of lead compounds and plastics.

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, 2017, and the notes thereto, which are included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2017, as filed with the Securities and Exchange Commission, or the SEC, on March 15, 2018. There have been no material changes in the Company’s significant accounting policies during the three months ended March 31, 2018 except for the implementation of Accounting Standards Update (“ASU”) No. 2016-18, Restricted Cash, (“ASU 2016-18”), 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 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, 2018, the condensed consolidated statements of operations for the three months ended March 31, 2018 and March 31, 2017, and the condensed consolidated statements of cash flows for the three months ended March 31, 2018 and March 31, 2017, as applicable have been made. The condensed consolidated balance sheet as of December 31, 2017 has been derived from our audited financial statements as of such date, but it 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, 2017, which are included on Form 10-K filed with the Securities and Exchange Commission on March 15, 2018.

The results of operations for the three months ended March 31, 2018 are not necessarily indicative of results that may be expected for the year ended December 31, 2018.

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 fair value of estimated asset retirement obligations, 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)

Restricted cash

Restricted cash was comprised of funds held in escrow at Green Bank for the purpose of paying for the construction of the lead recycling plant building in McCarran, Nevada. During 2017, the building was completed and the funds held in escrow were dispersed.

In November 2016, the Financial Accounting Standards Board, FASB issued ASU No. 2016-18. The amendments in ASU 2016-18 require an entity to reconcile and explain the period-over-period change in total cash, cash equivalents and restricted cash within its statements of cash flows rather than reconciling and explaining the period-over-period change in total cash and cash equivalents (excluding restricted cash). The Company adopted this new ASU beginning January 1, 2018 using the required full retrospective approach. The adoption of this standard resulted in an increase in net cash used in investing activities of \$548,000 in the condensed consolidated statements of cash flows for the three months ended March 31, 2017. As there is no restricted cash at March 31, 2018 or December 31, 2017, there is no effect on the three-month period ending March 31, 2018.

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the condensed consolidated statements of financial position that sum to the total of the same amounts shown in the condensed consolidated statement of cash flows (in thousands):

	March 31, 2017
Current assets	
Cash and cash equivalents	\$ 30,113
Restricted cash	576
Total cash, cash equivalents and restricted cash shown in the statement of cash flows	\$ 30,689

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,	
Excluded potentially dilutive securities (1):	2018	2017
Convertible note - principal	702,247	702,247
Consulting warrants to purchase common stock	—	12,500
Options to purchase common stock	561,536	892,129
Unvested restricted stock	63,600	—
Financing warrants to purchase common stock	2,340,828	2,384,464
Total potential dilutive securities	3,668,211	3,991,340

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

- (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.

Concentration of credit risk

Seventy-nine percent of revenue for the three-month period ended March 31, 2018 and Ninety-seven percent of accounts receivable at March 31, 2018 was derived from or attributable to Johnson Controls Battery Group, Inc.

Recent accounting pronouncements

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.

There were no other recent accounting pronouncements or changes in accounting pronouncements during the three months ended March 31, 2018 that are of significance or potential significance to the Company.

3. Revenue recognition

Revenues are recognized when control of the promised goods or services is transferred to customers, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those goods or services. Generally, this occurs with the delivery of the Company's products, primarily hard lead, lead compounds and plastics, to customers. Sales, value add, and other taxes, if any, that are collected concurrent with revenue-producing activities are excluded from revenue as they are subsequently remitted to governmental authorities. Incidental items that are immaterial in the context of the contract are recognized as expense. Freight and shipping costs related to the transfer of the Company's products to customers are included in revenue and cost of product sales. Payment on invoices is generally due within 30 days of the invoice.

The Company generates revenues by recycling lead acid batteries ("LABs") and selling the recovered lead to its customers. Primary components of the recycling process include sales of recycled lead consisting of lead compounds, ingoted hard lead and ingoted AquaRefined lead as well as plastics. The Company commenced the shipment of products for sale, consisting of lead compounds and plastics in April 2017 and through March 31, 2018, all revenue has been derived from the sale of lead compounds and plastics.

Arrangements with Multiple Performance Obligations

Contracts with customers may include multiple performance obligations. A performance obligation is a promise in a contract to transfer a distinct good or service to the customer, and is the unit of account in ASC 606. A contract's transaction price is allocated to each distinct performance obligation and recognized as revenue when, or as, the performance obligation is satisfied. The Company expects that many of our contracts will have a single performance obligation as the promise to transfer the individual goods or services will not be separately identifiable from other promises in the contracts and therefore, not distinct. For contracts with multiple performance obligations, revenue will be allocated to each performance obligation based on the Company's best estimate of the standalone selling price of each distinct good or service in the contract. The primary method used to estimate standalone selling prices is based on prices charged separately to customers or expected cost-plus margin.

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

Revenue from products transferred to customers at a single point in time, as noted above with the delivery of the Company's products to customers, accounted for 100% of our revenue during the three months ended March 31, 2018.

Practical Expedients and Exemptions

The Company does not disclose the value of unsatisfied performance obligations for (i) contracts with an original expected length of one year or less and (ii) contracts for which we recognize revenue at the amount to which we have the right to invoice for services performed.

4. Inventory

Inventory consisted of the following (in thousands):

	March 31, 2018	December 31, 2017
Finished goods	\$ 18	\$ 512
Work in process	58	182
Raw materials	857	545
Total inventory	<u>\$ 933</u>	<u>\$ 1,239</u>

5. Property and equipment, net

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

Asset Class	Useful Life (Years)	March 31, 2018	December 31, 2017
Operational equipment	3-10	\$ 15,478	\$ 15,457
Lab equipment	5	685	685
Computer equipment	3	174	174
Office furniture and equipment	3	326	326
Leasehold improvements	5-7	1,408	1,408
Land	—	1,047	1,047
Building	39	24,859	24,847
Asset retirement cost	20	670	670
Equipment under construction		<u>6,147</u>	<u>4,552</u>
		50,794	49,166
Less: accumulated depreciation		<u>(4,211)</u>	<u>(3,433)</u>
Total property and equipment, net		<u>\$ 46,583</u>	<u>\$ 45,733</u>

Depreciation expense was \$0.8 million and \$0.7 million for the three months ended March 31, 2018 and 2017, respectively. Equipment under construction is primarily AquaRefining modules manufactured by the Company to be used in the McCarran, Nevada recycling plant.

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

6. 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 (ARO) 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 5 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. Accretion of the ARO for the three months ended March 31, 2018 was \$11,000.

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. Through December 31, 2017, \$450,000 has been contributed to the trust fund; \$220,000 will be due on October 31, 2018.

7. Convertible Note Payable

The convertible note payable is with Interstate Battery Systems International, Inc. (Interstate Battery) and is comprised of the following (in thousands):

	March 31, 2018	December 31, 2017
Convertible note payable	\$ 5,000	\$ 5,000
Accrued interest	1,124	961
Deferred financing costs, net	(55)	(67)
Note discount	(4,327)	(4,562)
Convertible note payable, non-current portion	<u>\$ 1,742</u>	<u>\$ 1,332</u>

The convertible note payable bears interest at 11% per annum and is due May 25, 2019. The original note discount was calculated as the allocated fair value of the warrants issued in connection with the transaction, which included the issuance of common stock, warrants and the convertible note, as well as the allocated fair value of the embedded conversion feature, subject to limitations on the absolute amount of discount attributable to the convertible notes and its allocated value. The discount is being amortized using the effective interest method over the three-year term of the note, maturing on May 24, 2019.

8. 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-month periods ended March 31, June 30, September 30, 2017, December 31, 2017 and March 31, 2018. AMR has received a waiver for the minimum debt service coverage ratio covenant for the periods ending March 31, June 30, September 30, and December 31, 2017 and March 31, 2018.

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

The net proceeds of the loan were used for the construction of the Company's lead acid recycling operation McCarran, Nevada. 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, 2018	December 31, 2017
Notes payable, current portion		
Thermo Fisher Financial Service	\$ 100	\$ 128
Green Bank, net of issuance costs	282	277
Total notes payable, current portion	\$ 382	\$ 405
Notes payable, non-current portion		
Thermo Fisher Financial Service	\$ —	\$ 11
Green Bank, net of issuance costs	8,763	8,828
Total notes payable, non-current portion	\$ 8,763	\$ 8,839

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.

9. Stockholders' Equity

Shares issued

1,072,500 shares of common stock were issued during January 2018 upon exercise of the overallotment option related to the December 2017 public offering, netting proceeds to the Company of \$2.1 million.

The Company issued 65,600 shares of common stock upon vesting of Restricted Stock Units during the three months ended March 31, 2018. Additionally, the Company issued 2,034 shares of common stock pursuant to the Officers and Directors Purchase Plan during the three months ended March 31, 2018 for proceeds of \$4,000.

Stock based compensation

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

	Three months ended March 31,	
	2018	2017
Cost of product sales	\$ 50	\$ —
Research and development cost	112	87
General and administrative expense	(18)	74
Total	\$ 144	\$ 161

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

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

	Three months ended March 31,	
	2018	2017
Expected stock volatility	78.4%-79.9%	70.9%-72.2%
Risk free interest rate	2.06%-2.45%	1.53%-1.79%
Expected years until exercise	3.5	3.5
Dividend yield	0%	0%

There were no stock option exercises during the three months ended March 31, 2018.

10. 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. Pursuant to the Interstate Battery Investor Rights Agreement, the key-man payments are payable, at the option of the Company, in cash or shares of the Company's common stock. Pursuant to the agreement, if Interstate Battery, in its sole and absolute discretion, agrees with the Company on mutually acceptable replacements for Messrs. Clarke and/or Mould, as the case may be, the key man penalties shall be deemed waived by Interstate Battery.

As of the date of this report, Interstate Battery has raised a claim that the Company is in technical breach of a negative covenant under the Interstate Battery convertible loan. The claimed breach relates to the Company's failure to obtain Interstate Battery's prior written consent to its acquisition of Ebonex IPR, Ltd. The Company is in negotiations with Interstate Battery to resolve the claim and the Company believes it will be able to resolve that matter. However, in the event the Company is unable to resolve the claim, Interstate Battery may declare a default under the loan and attempt to accelerate the payment of all amounts thereunder. There can be no assurance we will be able to resolve this matter or that Interstate Battery will not declare a default under the loan and attempt to accelerate the payment of all amounts thereunder. The Company estimates that resolving the claim of breach will result in a charge of \$0.6 million. The Company recorded \$0.6 million in general and administrative expense for the year ended December 31, 2017 with the offset in accrued liabilities.

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. Pursuant to the Johnson Controls Investor Rights Agreement, the key-man payments are payable, at the option of the Company, in cash or shares of the Company's common stock. Pursuant to the agreement, if Johnson Controls, in its sole and absolute discretion, agrees with the Company on mutually acceptable replacements for Messrs. Clarke and/or Mould, as the case may be, the key man penalties shall be deemed waived by Johnson Controls.

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

Legal proceedings

Beginning on December 15, 2017, three purported class action lawsuits were filed in the United States District Court for the Northern District of California against the Company, Stephen R. Clarke, Thomas Murphy and Mark Weinswig: *Arlis Hampton vs. Aqua Metals, Inc. et al.*, Case No 3:17-cv-07142; *Grant Heath vs. Aqua Metals, Inc. et al.*, Case No 3:17-cv-07196-JST; *Lotfy Arbab vs. Aqua Metals, Inc. et al.*, Case No 3:17-cv-07270WHA. Each of the complaints was filed by persons claiming to be stockholders of the Company and generally allege violations of the anti-fraud provisions of the federal securities laws based on the alleged issuance of false and misleading statements of material fact, and the alleged omission to state material facts necessary to make other statements made not misleading, between May 19, 2016 and November 9, 2017 with respect to the Company's lead recycling operations. The complaints seek unspecified damages and plaintiffs' attorneys' fees and costs. As of the date of this report, multiple plaintiffs have filed motions seeking appointment as lead plaintiff. Briefing on those competing motions was completed in early March, and a hearing is set for May 17, 2018. The Company has not filed a responsive pleading in any of the above actions and does not expect to do so until a lead plaintiff has been appointed by the Court and a consolidated amended complaint is filed. The Company denies that the claims in any of the complaints have any merit and intends to vigorously defend the actions.

Beginning on February 2, 2018, five purported shareholder derivative actions were filed in the United States District Court for the District of Delaware against the Company and its current executive officers and directors, Stephen R. Clarke, Selwyn Mould, Mark Weinswig, Vincent DiVito, Mark Slade and Mark Stevenson, and one former officer and director, Thomas Murphy: *Al Lutzker, Derivatively and on Behalf of Aqua Metals, Inc. v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson and Aqua Metals, Inc.*, Case No. 1:18-cv-00201; *Chau Nguyen, Derivatively and on Behalf of Aqua Metals, Inc. v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson and Aqua Metals, Inc.*, Case No. 1:18-cv-00327; *Albert Stafford and Jerry Davis, Derivatively On Behalf Of Aqua Metals, Inc., v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson, and Aqua Metals, Inc.*, Case No. 1:18-cv-00379; *Sherry Lu, Derivatively And On Behalf Of Aqua Metals, Inc., v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson, and Aqua Metals, Inc.*, Case No. 1:18-cv-00407; and *Richard Byrne and Christopher Ballentine, derivatively on behalf of Aqua Metals, Inc. v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson and Aqua Metals, Inc.*, Case No. 1:18-cv-00498. The complaints were filed by persons claiming to be stockholders of the Company and generally allege that certain of its officers and directors breached their fiduciary duties to us by violating the federal securities laws and exposing us to possible financial liability. The complaints seek unspecified damages and plaintiffs' attorneys' fees and costs. The parties have entered into a stipulation consolidating the actions. No responsive pleading is required until a consolidated complaint is served. The Company denies that the claims in the shareholder derivative complaint have any merit and intends to vigorously defend the actions.

11. Subsequent Events

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

On April 19, 2018, Stephen Clarke resigned as president and chief executive officer and as a member of the Board. Mr. Clarke has agreed to serve as a consultant to the Company on an as-needed basis. As a result of Dr. Clarke's resignation, the Company will be obligated to make key-man payments of \$2 million and \$1 million to Interstate Battery and Johnson Controls, respectively, payable, at the option of the Company, in cash or shares of the Company's common stock, unless Interstate Battery or Johnson Controls, as the case may be, approves the successor to Dr. Clarke. See Note 10.

Dr. Clarke's resignation as an officer the Company is regarded as a termination without cause under his employment agreement with the Company. Pursuant to his employment agreement, Dr. Clarke is entitled to one-time severance benefits that includes severance and benefits continuation expense of approximately \$0.9 million paid out over a 2-year period in consideration of his execution of a customary release and separation agreement. Additionally, Dr. Clarke was granted an extension of the exercise period of his stock options upon termination from 90 days to 2 years. The expense related to the modification of these stock option awards is approximately \$15,000.

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, 2017 filed with the SEC on March 15, 2018, 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 our documents, reports, filings with the SEC, and news releases, and in written or oral presentations made by officers or other representatives to analysts, stockholders, investors, news organizations and others, and in 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 below in Part II, Item 1 "Risk Factors". 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 engaged in the business of lead recycling through its proprietary AquaRefining[™] technology. AquaRefining is a room temperature, water-based process that is fundamentally non-polluting. Our AquaRefining 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 construction of our initial lead acid battery, or LAB, recycling facility in the Tahoe Regional Industrial Center, McCarran, Nevada ("TRIC"), and the continuing development of our LAB recycling operations at TRIC as we bring those LAB recycling operations online.

We have completed the building construction of our first LAB recycling facility at TRIC and commenced production during the first quarter of 2017. The TRIC facility will produce recycled lead, consisting of lead compounds, ingoted hard lead and ingoted AquaRefined lead as well as plastic. We commenced the shipment of products for sale, consisting of lead compounds and plastics, in April 2017 and through March 31, 2018 all revenue has been derived from the sale of lead compounds and plastics.

By December 2017, we had installed 16 AquaRefining modules at TRIC. However, we encountered an issue which required the retrofitting of all 16 modules. As of the date of this report, we have substantially completed the retrofit of all 16 modules for this particular issue and have begun to bring modules into commercial operation. As we bring the modules into commercial operation, we expect to continue to adjust the modules to enhance operation. We intend to bring the modules on line in batches of four. As of the date of this report, we have brought the first four modules into commercial operation and expect to ramp up production during the second quarter. However, due to the delays and unforeseen issues in the completion of the AquaRefining production line we have experienced to date, there can be no assurance that we will not encounter additional delays and issues.

Since January 1, 2018, we have engaged in the following non-routine transactions:

Public Offering. On December 12, 2017, we completed a public offering of 7,150,000 shares of our common stock, at the public offering price of \$2.10 per share, for gross proceeds of \$15 million. After the payment of underwriter discounts and offering expenses we received net proceeds of approximately \$13.8 million. In January 2018, the underwriter exercised its overallotment option resulting in an additional 1,072,500 shares being issued and net proceeds to us of approximately \$2.1 million.

Settlement of Proxy Contest. In connection with our 2018 annual meeting of stockholders (“Annual Meeting”), pursuant to a letter agreement (“Settlement Agreement”) dated May 2, 2018 between us and David L. Kanen and Kanen Wealth Management LLC, (“Kanen”), we and Kanen have agreed to settle the proxy contest, and Kanen has withdrawn his slate of opposition candidates. In connection with the Settlement Agreement, our Board agreed to appoint Stephen Cotton, our former chief commercial officer, as our president effective May 9, 2018. In connection with the Annual Meeting, Kanen proposed a slate of five nominees for election to the Board in opposition to the five nominees recommended by the Board for election at the Annual Meeting. Pursuant the Settlement Agreement, we and Kanen have agreed to settle the proxy contest, and Kanen has withdrawn his slate of opposition candidates, on the following terms:

The Board has been expanded to six (6) members and until the earlier of (x) the May 2, 2020 and (y) such date on which the Kanen no longer, directly or indirectly, beneficially owns at least 4.0% of our outstanding common stock (the earlier of such, the “Nomination Right Expiration Date”), Kanen shall have the right to submit to the Nominating and Corporate Governance Committee of the Board (the “Nominating Committee”) two (2) nominees for inclusion as Board-recommended director candidates with respect to each annual meeting of our stockholders held prior to the Nomination Right Expiration Date;

- Kanen has submitted, and the Board has nominated, for election at the Annual Meeting Mr. S. Shariq Yosufzai and Mr. Sushil (“Sam”) Kapoor;
- Mr. Yosufzai has been appointed to serve as non-executive Chairman and lead independent director of the Board;
- Mr. Yosufzai shall be added to the Nominating Committee and Mr. Kapoor shall be added to the Compensation Committee of the Board;
- The Board has formed a four-member committee (“CEO Search Committee”) and Messrs. Yosufzai and Kapoor have been appointed to such committee joining Messrs. Divito and Stevenson;
- The Board has agreed to appoint Steve Cotton, our former chief commercial officer, as our President, to serve in such capacity commencing immediately following the filing of this report;
- David L. Kanen has been granted board observation rights through our 2019 annual meeting of stockholders, subject to Mr. Kanen’s execution of and compliance with a customary confidentiality agreement and adherence to our insider trading policies applicable to Board members generally.

The foregoing summary of the Settlement Agreement does not purport to be complete and is qualified in its entirety by reference to the Settlement Agreement filed as Exhibit 10.1 to our Current Report on Form 8-K filed on May 2, 2018 and is incorporated herein by reference.

Plan of Operations

Our plan of operations for 2018 is to complete the commercial roll-out of all 16 AquaRefining modules installed at TRIC and to ramp up the production of AquaRefined lead during 2018. We plan to install an additional 16 AquaRefining modules to our TRIC facility, subject to our receipt of additional capital and any design improvements that are recommended based on the operation of the first 16 modules.

Subject to our ability to ramp up our AquaRefining operations to a commercial scale, our priority will be to develop a proposal to provide equipment, planning, engineering, technical and other services in support of the addition of an AquaRefining facility to a battery recycling facility owned by Johnson Controls. This proposed work is expected to produce a blueprint for further additions of AquaRefining facilities under a proposed definitive development agreement with Johnson Controls. Pursuant to that definitive agreement, we plan to collaborate with Johnson Controls for the conversion of its own and certain of its strategic partners’ existing lead smelters to a lead recycling process utilizing our proprietary AquaRefining technology, equipment, know-how and services. However, there can be no assurance that we will be able to conclude a definitive development agreement with Johnson Controls on terms that benefit us, if at all.

Our 12-month plan of operations includes the pursuit and evaluation of additional strategic relationships to support the expansion of our own facilities and the provision of equipment and services to third parties.

Additional funding will be required to increase production of AquaRefined lead at TRIC beyond that planned for 16 modules, to work with Johnson Controls on equipment integration and licensing to third parties, to fund working capital needs related to the ramp-up of our operations and to fund our continued losses from operations until such time as we are able to achieve positive cash flow from operations. 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.

Results of Operations

During the second quarter of 2017, we began shipments of lead compounds and plastics to customers. The following table summarizes results of operations with respect to the items set forth below for the three months ended March 31, 2018 and 2017 together with the percentage change in those items (in thousands).

	Three months ended March 31,			
	2018	2017	Favorable (Unfavorable)	% Change
Product sales	\$ 1,726	\$ —	\$ 1,726	—
Cost of product sales	5,436	—	(5,436)	—
Research and development cost	1,475	2,987	1,512	50.62%
General and administrative expense	1,775	1,528	(247)	16.16%
Total operating expense	<u>\$ 8,686</u>	<u>\$ 4,515</u>	<u>\$ (4,171)</u>	<u>92.38%</u>

As mentioned above, product sales, consisting of lead compounds and plastics, began in April 2017. Cost of product sales consists of all operating costs incurred at our McCarran facility following the commencement of product sales. Costs incurred at the McCarran facility prior to commencement of sales are included in research and development costs. Cost of product sales includes raw materials, supplies and related costs, salaries and benefits, consulting and outside services costs, depreciation and amortization costs and insurance, travel and overhead costs. There are no comparatives for the previous period.

Research and development cost included TRIC operating cost prior to the commencement of product sales, including cost incurred to prepare our TRIC plant for operations. During the three months ended March 31, 2018, research and development costs decreased by 51% over the comparable period in 2017. At March 31, 2017, we had 41 employees in the TRIC facility and we focused on starting commercial operations (cost included in research and development expense). At March 31, 2018, we had 38 employees at the TRIC and are focused on recycling lead operations as well as continuing to commission various processes within the plant (cost included in cost of product sales). The decline in research and development expense in the three-month period ended March 31, 2018 as compared to the prior year period is primarily associated with the cost of the TRIC facility being included in cost of product sales rather than research and development subsequent to the commencement of product sales during the second quarter of 2017.

General and administrative expense has increased for the three-month period ended March 31, 2018 versus March 31, 2017, primarily due to increased legal fees associated with shareholder lawsuits and legal, proxy and solicitation fees associated with the efforts to address activist investors.

The following table summarizes our other income and interest expense for the three months ended March 31, 2018 and 2017 together with the percentage change in those items (in thousands).

	Three months ended March 31,			
	2018	2017	Favorable (Unfavorable)	% Change
Other (expense) income				
Interest expense	(587)	(388)	\$ (199)	51.29%
Interest and other income	17	11	\$ 6	54.55%

Interest during the three months ended March 31, 2018 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 to Green Bank.

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 \$2.0 million in 2018 and \$2.6 million in 2019.

Liquidity and Capital Resources

As of March 31, 2018, we had total assets of \$70.0 million and working capital of \$16.1 million.

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

	Three months ended March 31,	
	2018	2017
Net cash used in operating activities	(5,958)	(4,150)
Net cash used in investing activities	(1,337)	(2,320)
Net cash provided by financing activities	1,999	10,577

Net cash used in operating activities

Net cash used in operating activities for the three months ended March 31, 2018 and 2017 was \$6.0 million and \$4.2 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, and the impairment charge 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, 2018 and 2017 was \$1.3 million and \$2.3 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.

Net cash provided by financing activities

Net cash provided by financing activities for the three months ended March 31, 2018 consisted of \$2.1 million net proceeds from the underwriter exercise of their overallotment option related to our December 2017 public offering. Net cash provided by financing activities for the three months ended March 31, 2017 consists of \$10.5 million net proceeds from the issuance of common stock to Johnson Controls. These increases are partially offset by principle payments against our capital leases and debt repayments.

As of the date of this report, we believe that our working capital is sufficient to fund the commissioning and commencement of commercial operations of at least 16 AquaRefining modules and our commercial operations at TRIC through, at least, May 2019, assuming the successful commercial rollouts of the 16 AquaRefining modules. However, we will require additional capital in order to increase production of AquaRefined lead at TRIC beyond that planned for 16 modules, to work with Johnson Controls on equipment integration and licensing to third parties, to fund working capital needs related to the ramp-up of our operations and to fund our continued losses from operations until such time as we are able to achieve positive cash flow from operations. 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. Additionally, Aqua Metals Reno, or AMR, was not in compliance with its the minimum debt service coverage ratio covenant as of and for the three-month periods ended March 31, June 30, September 30, December 31, 2017 and March 31, 2018 on its loan from Green Bank. AMR received a waiver for the minimum debt service coverage ratio covenant for the periods ended March 31, June 30, September 30, December 31, 2017 and March 31, 2018. While we expect to continue to receive waivers from Green Bank for non-compliance with such covenant, there is no guarantee that we will receive such waivers. If Green Bank determines not to grant us a waiver for non-compliance in the future, we would be in default of the loan and Green Bank would be able to accelerate the payment of all amounts under the loan. In addition, a failure by Green Bank to provide us with the required waiver could also constitute a default under our \$5 million loan with Interstate Battery and allow it to accelerate the payment of all amounts thereunder.

As of the date of this report, Interstate Battery has raised a claim that we are in technical breach of a negative covenant under our \$5 million loan from Interstate Battery. The claimed breach relates to our failure to obtain Interstate Battery's prior written consent to our acquisition of Ebonex IPR, Ltd. In the event we are unable to resolve the matter, Interstate Battery may declare a default under the loan and attempt to accelerate the payment of all amounts thereunder. There can be no assurance we will be able to resolve the claim of breach or that Interstate Battery will not declare a default under the loan and attempt to accelerate the payment of all amounts thereunder.

Off-Balance Sheet Arrangements

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

Item 3. Quantitative and Qualitative Disclosures about Market Risks

We do not enter into financial instruments for trading or speculative purpose. Our primary exposure to market risk is interest expense related to our debt with Green Bank. The interest rate on this loan adjusts on the first day of each calendar quarter equal 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 by the Wall Street Journal.

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, 2018.

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, 2018 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings

Beginning on December 15, 2017, three purported class action lawsuits were filed in the United States District Court for the Northern District California against us, Stephen R. Clarke, Thomas Murphy and Mark Weinswig: *Arlis Hampton vs. Aqua Metals, Inc. et al.*, Case No 3:17-cv-07142; *Grant Heath vs. Aqua Metals, Inc. et al.*, Case No 3:17-cv-07196-JST; *Lofly Arbab vs. Aqua Metals, Inc. et al.*, Case No 3:17-cv-07270WHA. Each of the complaints was filed by persons claiming to be stockholders of Aqua Metals and generally allege violations of the anti-fraud provisions of the federal securities laws based on the alleged issuance of false and misleading statements of material fact, and the alleged omission to state material facts necessary to make other statements made not misleading, between May 19, 2016 and November 9, 2017 with respect to our lead recycling operations. The complaints seek unspecified damages and plaintiffs' attorneys' fees and costs. As of the date of this report, multiple plaintiffs have filed motions seeking appointment as lead plaintiff. Briefing on those competing motions was completed in early March, and a hearing is set for May 17, 2018. We have not filed a responsive pleading in any of the above actions and do not expect to do so until a lead plaintiff has been appointed by the Court and a consolidated amended complaint is filed. We deny that the claims in any of the complaints have any merit and we intend to vigorously defend the actions.

Beginning on February 2, 2018, five purported shareholder derivative actions were filed in the United States District Court for the District of Delaware against us and our current executive officers and directors, Stephen R. Clarke, Selwyn Mould, Mark Weinswig, Vincent DiVito, Mark Slade and Mark Stevenson, and one former officer and director, Thomas Murphy: *Al Lutzker, Derivatively and on Behalf of Aqua Metals, Inc. v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson and Aqua Metals, Inc.*, Case No. 1:18-cv-00201; *aChau Nguyen, Derivatively and on Behalf of Aqua Metals, Inc. v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson and Aqua Metals, Inc.*, Case No. 1:18-cv-00327; *Albert Stafford and Jerry Davis, Derivatively On Behalf Of Aqua Metals, Inc., v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson, and Aqua Metals, Inc.*, Case No. 1:18-cv-00379; *Sherry Lu, Derivatively And On Behalf Of Aqua Metals, Inc., v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson, and Aqua Metals, Inc.*, Case No. 1:18-cv-00407; and *Richard Byrne and Christopher Ballentine, derivatively on behalf of Aqua Metals, Inc. v. Stephen R. Clarke, Thomas Murphy, Mark Weinswig, Selwyn Mould, Vincent L. Divito, Mark Slade and Mark Stevenson and Aqua Metals, Inc.*, Case No. 1:18-cv-00498. The complaints were filed by persons claiming to be stockholders of Aqua Metals and generally alleges that certain of our officers and directors breached their fiduciary duties to us by violating the federal securities laws and exposing us to possible financial liability. The complaints seek unspecified damages and plaintiffs' attorneys' fees and costs. The parties have entered into a stipulation consolidating the actions. No responsive pleading is required until a consolidated complaint is served. We deny that the claims in the shareholder derivative action have any merit and we intend to vigorously defend the action.

We are not party to any other legal proceedings. We may, from time to time, be party to litigation and subject to claims incident to the ordinary course of business. As our growth continues, we may become party to an increasing number of litigation matters and claims. The outcome of litigation and claims cannot be predicted with certainty, and the resolution of any future matters could materially affect our future financial position, results of operations or cash flows.

Item 1A. Risk Factors

There are numerous and varied risks, known and unknown, that may prevent us from achieving our goals. If any of these risks actually occur, our business, financial condition or results of operation may be materially adversely affected. In such case, the trading price of our common stock could decline and investors could lose all or part of their investment.

Risks Relating to Our Business

Since we have a limited operating history and have only recently commenced revenue producing operations, it is difficult for potential investors to evaluate our business. We formed our corporation in June 2014 and only commenced revenue producing operations in the first quarter of 2017. From inception through March 31, 2018, we generated a total of \$3.8 million of revenue, all of which was derived from the sale of lead compounds and plastics. To date, our operations have consisted of the development and testing of our AquaRefining process, the construction of our initial LAB recycling facility in Tahoe Regional Industrial Center, McCarran, Nevada ("TRIC"), the continuing development of our LAB recycling operations at TRIC and limited revenue producing operations as we bring those LAB recycling operations online. Our limited operating history makes it difficult for potential investors to evaluate our technology or prospective operations. As an early stage company, we are subject to all the risks inherent in the initial organization, financing, expenditures, complications and delays in a new business, including, without limitation:

- the timing and success of our plan of commercialization and the fact that we continue to experience delays in completing our LAB recycling operations at TRIC;
- our ability to bring modules online and ramp up production on a commercial scale;
- our ability to profitably operate our AquaRefining process on a commercial scale;
- our ability to realize the expected benefits of our strategic partnership with Johnson Controls;
- our ability to procure LABs in sufficient quantities at competitive prices; and
- our ability to receive proper certification from and meet the requirements of our customers regarding the purity of our AquaRefined lead.

Investors should evaluate an investment in us in light of the uncertainties encountered by developing companies in a competitive environment. There can be no assurance that our efforts will be successful or that we will ultimately be able to attain profitability.

Our business is dependent upon on our successful implementation of novel and unproven technologies and processes and there can be no assurance that we will be able to implement such technologies and processes in a manner that supports the successful commercial roll-out of our business model. While much of the technology and processes involved in our lead recycling operations are widely used and proven, the AquaRefining component of our lead recycling operations is largely novel and unproven. While we have shown that our proprietary technology can produce AquaRefined lead on a small scale, we have only recently completed, and have not put into operation, the processes that we believe will support the production of AquaRefined lead on a commercial scale. Further, as we complete our AquaRefining production line, we continue to encounter unforeseen complications that have delayed the installation and commissioning of our AquaRefining modules and the integration of our AquaRefining process with the traditional lead recycling operations. For example, we most recently had to develop special processes and equipment to deal with an unexpected development in the form of “sticky lead,” whereby the AquaRefined lead produced by our electrolyzers stuck to the AquaRefining modules’ exit chute and failed to exit without manual intervention. As of the date of this report, we have substantially completed the retrofit of all 16 modules for this particular issue and have begun to bring the modules into commercial operation. There can be no assurance that we will not encounter additional unforeseen complications that will cause further delays in our planned commercial operation of our AquaRefining modules or prevent us from commencing commercial production of AquaRefined lead at all.

We will need additional financing to execute our business plan and fund operations, which additional financing may not be available on reasonable terms or at all. As of March 31, 2018, we had total cash of \$17.5 million and working capital of \$16.1 million. As of the date of this report, we believe that we have working capital sufficient to fund the commissioning and commercial operation of 16 AquaRefining modules at TRIC over the 12 months from the date of this report. However, we will require additional capital in order to increase production of AquaRefined lead at TRIC beyond that planned for 16 modules, to work with Johnson Controls on equipment integration and licensing to third parties, to fund working capital needs related to the ramp-up of our operations and to fund our continued losses from operations until such time as we are able to achieve positive cash flow from operations. There can be no assurance that we will be able to acquire the necessary funding on commercially reasonable terms or at all. There can also be no assurance we will be able to conclude the proposed development agreement with Johnson Controls. 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 assurance that such funds will be available on commercially reasonable terms, if at all. If such funding is not available on satisfactory terms, we may be unable to further pursue our business plan and we may be unable to continue operations, in which case you may lose your entire investment.

We are subject to restrictive debt covenants that may limit our ability to run our business, finance our capital needs and pursue business opportunities and activities. As of the date of this Quarterly Report, we are indebted to Green Bank for approximately \$9.7 million and Interstate Battery for approximately \$6.1 million, all of which is secured by liens on substantially all of our assets. The credit agreements governing such indebtedness contain covenants that limit our ability to take certain actions. These covenants could limit our ability to finance our future operations and capital needs and our ability to pursue business opportunities and activities that may be in our interest. If we breach any of these covenants, the debt holder could declare a default under the credit agreement, in which case all of the indebtedness may then become immediately due and payable. In addition, any default under one credit agreement could lead to an acceleration of debt under the other credit agreement pursuant to cross-acceleration or cross-default provisions. If the debt under either credit agreement is accelerated, we may not have, or be able to obtain, sufficient funds to make these accelerated payments. In addition, since all of the indebtedness to Green Bank and Interstate Battery is secured by substantially all of our assets, a default under either credit facility could enable the debtholder to foreclose on its security interest and attempt to seize our assets. The affirmative and negative debt covenants could materially adversely impact our ability to operate and finance our business. In addition, our default under any of these covenants could subject us to accelerated debt payments or foreclosure proceedings that could threaten our ability to continue as a going concern.

Interstate Battery currently claims that we are in breach of a negative covenant with Interstate Battery and we have not been able to comply with our debt service covenant with Green Bank. As of the date of this report, Interstate Battery has raised a claim that we are in technical breach of a negative covenant under our loan with Interstate Battery. The claimed breach relates to our failure to obtain Interstate Battery's prior written consent to our acquisition of Ebonex IPR, Ltd. We believe we will be able to resolve the matter. However, in the event we are unable to resolve the matter, Interstate Battery may declare a default under the loan and attempt to accelerate the payment of all amounts thereunder. There can be no assurance we will be able to resolve the claimed breach or that Interstate Battery will not declare a default under the loan and attempt to accelerate the payment of all amounts thereunder. In addition, our credit agreement with Green Bank requires, among other affirmative and negative covenants, that we maintain a minimum debt service coverage ratio of 1.25 to 1.0 beginning with the twelve-month period ending March 31, 2017. We failed to meet the minimum debt service coverage ratio covenant as of March 31, June 30, September 30, December 31, 2017 and March 31, 2018, and we were required to obtain a waiver of the minimum debt service coverage ratio covenant from Green Bank for such periods. There can be no assurance that Green Bank will provide waivers of this covenant, or any other covenant that we may fail to satisfy, going forward. Our default under either the Interstate Battery or Green Bank loan covenants could subject us to accelerated debt payments or foreclosure proceedings that could threaten our ability to continue as a going concern.

In the event of the acceleration of either the Interstate Battery or Green Bank loans, we will need additional financing to satisfy our obligations under the loans, which additional financing may not be available on reasonable terms or at all. As noted above, as of the date of this report, we are indebted to Green Bank for approximately \$9.7 million and Interstate Battery for approximately \$6.1 million. The credit agreements governing such indebtedness contain various affirmative and negative covenants and if we breach any of these covenants, the debt holder could declare a default under the credit agreement, in which case all of the indebtedness may then become immediately due and payable. In addition, any default under one credit agreement could lead to an acceleration of debt under the other credit agreement pursuant to cross-acceleration or cross-default provisions. If the debt under either credit agreement is accelerated, we may not have sufficient funds to make the accelerated payments, in which case we would be required to seek additional funds through various financing sources, most likely through the sale of our equity or debt securities. However, there can be no assurance that such funds will be available on commercially reasonable terms, if at all. Further, any sale of our equity or equity-linked securities will result in additional dilution to our stockholders.

Our outstanding debt may make it difficult for us obtain additional financing using our future operating cash flow. We currently have a substantial amount of indebtedness, including approximately \$9.7 million owed to Green Bank and approximately \$6.1 million owed to Interstate Battery as of the date of this report. Such indebtedness could limit our ability to borrow additional funds to fund operations or expansion or increase the cost of any such borrowing, or both. Our inability to conduct additional debt financing could:

- limit our flexibility in developing our business operations and planning for, or reacting to, changes in our business;
- increase our vulnerability to, and reduce our flexibility to respond to, general adverse economic and industry conditions; and
- place us at a competitive disadvantage as compared to our competitors that are not as highly leveraged.

Any of these or other consequences or events could have a material adverse effect on our ability to finance our business and our operations.

We may be required to pay up to \$3 million of key-man payments as the result of the resignation of our chief executive officer. On April 19, 2018, Stephen Clarke resigned as our president and chief executive officer and as a member of our Board. As a result of Mr. Clarke's resignation, we will be obligated to make key-man payments of \$2 million and \$1 million to Interstate Battery and Johnson Controls, respectively, payable, at our option, in cash or shares of our common stock, unless Interstate Battery and/or Johnson Controls, as the case may be, approves the successor to Dr. Clarke. See Note 10 to our unaudited condensed consolidated financial statements. We have commenced the process of discussing Dr. Clarke's successor with Interstate Battery and Johnson Controls and are hopeful we will be successful in obtaining their approval of Dr. Clarke's successor, however there can be no assurance we will be able to do so. If we are unable to obtain the approval of either or both of Interstate Battery and Johnson Controls to waive the key man payments, we will be obligated to pay them up to \$3 million in cash or our common shares.

Our business model is new and has not been proven by us or anyone else. We are engaged in the business of producing recycled lead through a novel and unproven technology. While the production of recycled lead is an established business, to date all recycled lead has been produced by way of traditional smelting processes. To our knowledge, no one has successfully produced recycled lead in commercial quantities other than by way of smelting. In addition, our lead recycling production line at TRIC is the first-of-its-kind and neither we nor anyone else has ever successfully built a production line that commercially recycles LABs without smelting. While we have commenced limited lead recycling operations at our TRIC facility, to date all revenues have been derived from the sale of lead compounds and plastics and we have not commenced the commercial production of AquaRefined lead. In addition to the general risks associated with a novel and unproven technology, our business model is subject to a number of related risks, including:

- our ability to acquire sufficient quantities of used LABs at competitive prices;
- our ability to produce AquaRefined lead on a commercial scale and at an adequate gross profit; and
- our ability to sell our AquaRefined lead at prices and in quantities that provide an adequate net profit from operations.

Further, there can be no assurance that we will be able to produce AquaRefined lead in commercial quantities at a cost of production that will provide us with an adequate profit margin. The uniqueness of our AquaRefining process and our production line at TRIC presents potential risks associated with the development of a business model that is untried and unproven.

Certain industry participants may have the ability to restrict our access to used LABs and otherwise focus significant competitive pressure on us. We believe that our primary competition will come from operators of existing smelters and other parties invested in the existing supply chain for smelting, both of which may resist the change presented by our AquaRefining process. Competition from such incumbents may come in the form of restricted access to used LABs. We believe that LAB manufacturers who also maintain their own smelting operations control a significant part of the market for used LABs. We will require access to used LABs at market prices in order to carry out our business plan. If those LAB manufacturers and others involved in the reverse supply chain for used LABs attempt to restrict our access to used LABs, that may adversely affect our prospects and future growth. There can be no assurance that we will be able to effectively withstand the pressures applied by our competition.

Even if we are successful in recycling lead using our processes, there can be no assurance that the AquaRefined lead will meet the certification and purity requirements of our potential customers. A key component of our business plan is to produce recycled lead through our AquaRefining process of the highest purity (at least 99.99% pure lead), which we refer to as AquaRefined lead. We believe that our AquaRefined lead will provide us with the highest gross profit margin and, more importantly, our ability to produce AquaRefined lead will be vital to confirming the efficacy and relevancy of our proprietary technology. Our customers will require that our AquaRefined lead meet certain minimum purity standards and, in all likelihood, require independent assays to confirm the lead's purity. As of the date of this report, we have produced limited quantities of AquaRefined lead. However, we have not produced AquaRefined lead in commercial quantities and there can be no assurance that we will be able to do so or, if we are able to produce AquaRefined lead in commercial quantities, that such lead will meet the required purity standards of our customers. If we are unable to commercially produce AquaRefined lead that meets the purity standards established by our customers, our entire business plan may be invalidated and you may suffer the loss of your entire investment.

While we have been successful in producing AquaRefined lead in small volumes, there can be no assurance that we will be able to replicate the process, along with all of the expected economic advantages, on a large commercial scale. As of the date of this report, our commercial operations have involved the production of lead compounds and plastics from recycled LABs and we have not commenced the commercial production of AquaRefined lead. While we believe that our development, testing and limited production to date has validated the concept of our AquaRefining process, the limited nature of our operations to date are not sufficient to confirm the economic returns on our production of recycled lead. There can be no assurance that the commencement of commercial production of AquaRefined lead at our TRIC facility will not incur unexpected costs or setbacks that might restrict the desired scale of our intended operations or that we will be to produce AquaRefined lead in commercial quantities at a cost of production that will provide us with an adequate profit margin.

We have completed the construction of our initial LAB recycling facility at TRIC, however we have been delayed in the completion of our lead recycling operations at TRIC and we may encounter further delays. We completed the construction of our initial LAB recycling facility at TRIC in August 2016 and commenced the limited production of recycled lead in the first quarter of 2017. However, as of the date of this report, our commercial operations have involved the production of lead compounds and plastics from recycled LABs and we have not commenced the commercial production of AquaRefined lead. As of December 2017, we have installed 16 AquaRefining modules. However, we encountered an issue which required the retrofitting of all 16 modules. As of the date of this report, we have substantially completed the retrofit of all 16 modules for this particular issue and have begun to bring all 16 modules into commercial operation. As we bring the modules into commercial operation, we expect to continue to adjust the modules to enhance operations. We intend to bring the modules on line in batches of four. As of the date of this report, we have brought the first four modules into commercial operation and expect to ramp up production during the second quarter. However, due to the delays and unforeseen issues in the completion of the AquaRefining production line we have experienced to date, there can be no assurance that we will not encounter additional delays and issues. In addition, since our lead recycling production line at TRIC is the first-of-its-kind, neither we nor anyone else has ever built a facility of this nature and there can be no assurance that we will not experience continuing operational delays and issues, including significant downtime from time to time, as we progress into the commercial production of AquaRefined lead. There can be no assurance that the commencement of commercial AquaRefining operations at our TRIC facility will not incur unexpected costs or hurdles that might restrict the desired scale of our intended operations or negatively impact our projected gross profit margin.

Our intellectual property rights may not be adequate to protect our business. As of the date of this report, we have secured one US patent (US 9837689) and international patents in Korea (Korea Patent No. 10-1739414), Japan (Japan Patent No. 6173595) Australia (Australia Patent No. AU2014353227), Canada (CA 2930945), African Intellectual Property Organization (OA 17808), and South Africa (ZA 2016.04083). We also have further patent applications pending in the United States and numerous corresponding patent applications pending in 20 additional jurisdictions relating to certain elements of the technology underlying our AquaRefining process and related apparatus and chemical formulations. However, no assurances can be given that any patent issued, or any patents issued on our current and any future patent applications, will be sufficiently broad to adequately protect our technology. In addition, we cannot assure you that any patents issued now or in the future will not be challenged, invalidated, or circumvented.

Even patents issued to us may not stop a competitor from illegally using our patented processes and materials. In such event, we would incur substantial costs and expenses, including lost time of management in addressing and litigating, if necessary, such matters. Additionally, we rely upon a combination of trade secret laws and nondisclosure agreements with third parties and employees having access to confidential information or receiving unpatented proprietary know-how, trade secrets and technology to protect our proprietary rights and technology. These laws and agreements provide only limited protection. We can give no assurance that these measures will adequately protect us from misappropriation of proprietary information.

Our processes may infringe on the intellectual property rights of others, which could lead to costly disputes or disruptions. The applied science industry is characterized by frequent allegations of intellectual property infringement. Though we do not expect to be subject to any of these allegations, any allegation of infringement could be time consuming and expensive to defend or resolve, result in substantial diversion of management resources, cause suspension of operations or force us to enter into royalty, license, or other agreements rather than dispute the merits of such allegation. If patent holders or other holders of intellectual property initiate legal proceedings, we may be forced into protracted and costly litigation. We may not be successful in defending such litigation and may not be able to procure any required royalty or license agreements on acceptable terms or at all.

Our business strategy includes licensing arrangements and entering into joint ventures and strategic alliances, however as of the date of this report we have no such agreements in place and there can be no assurance we will be able to do so. Failure to successfully integrate such licensing arrangements, joint ventures, or strategic alliances into our operations could adversely affect our business. We propose to commercially exploit our AquaRefining process, in part, by licensing our technology to third parties and entering into joint ventures and strategic relationships with parties involved in the manufacture and recycling of LABs, including Johnson Controls, among others. However, as of the date of this report, we have not entered into any such licensing, joint venture or strategic alliance agreements, apart from our equipment supply agreement with Johnson Controls, and there can be no assurance that we will be able to do so on terms that benefit us, if at all. In addition, licensing programs, joint ventures and strategic alliances may involve significant other risks and uncertainties, including distraction of management's attention away from normal business operations, insufficient revenue generation to offset liabilities assumed and expenses associated with the transaction, and unidentified issues not discovered in our due diligence process, such as product quality, technology issues and legal contingencies. In addition, we may be unable to effectively integrate any such programs and ventures into our operations. Our operating results could be adversely affected by any problems arising during or from any licenses, joint ventures or strategic alliances.

There can be no assurance that we will be able to negotiate our key agreement with Johnson Controls on commercially reasonable terms, or at all. In February 2017, we entered into a series of agreements with Johnson Controls, including an equipment supply agreement pursuant to which, among other things, we agreed to work with Johnson Controls on the development of a program for the 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 AquaRefining technology and equipment, know-how and services. The equipment supply agreement discusses the development of the conversion program in general terms and contemplates that the parties will enter into a definitive development program agreement that is based on the general terms set forth in the equipment supply agreement and provides more detailed terms and conditions, including the economic obligations and rights of each party. We have agreed not to license our AquaRefining technology and equipment to third parties in the aforementioned regions until such time as we and Johnson Controls have agreed on certain matters relating to the initial conversion of a Johnson Controls facility. Johnson Controls and we have agreed to use good faith, commercial best-efforts to conclude the discussion and negotiation of the development program agreement no later than April 30, 2019, and to enter into a definitive development program agreement no later than June 30, 2019. The equipment supply agreement may be terminated by either party upon 60 days' prior written notice if the parties have not entered into the development program agreement by June 30, 2019. There can be no assurance that we will be able to negotiate and conclude a definitive development program agreement with Johnson Controls on commercially reasonable terms, or at all.

We are dependent on a limited number of suppliers of certain materials used in our AquaRefining process and our inability to obtain these materials as and when needed could cause a material disruption in our operations. Our AquaRefining process involves a significant number of elements, chemicals, solvents and other materials, in addition to used LABs. There are a limited number of suppliers of certain materials used in our AquaRefining process and we have no agreements in place for our supply of such materials. Our ability to conduct our AquaRefining process on a commercial scale will depend significantly on obtaining timely and adequate supply of these materials on competitive terms. Our inability to source these materials on a timely and cost-efficient manner could interrupt our operations, significantly limit our revenue sales and increase our costs. This factor could also impair our ability to meet our commitments to supply our customers. Our inability to obtain these materials as and when needed could cause a material disruption in our operations.

If we are unable to manage future expansion effectively, our business, operations and financial condition may suffer significantly, resulting in decreased productivity. If our AquaRefining process proves to be commercially viable, growth and expansion activities could place a significant strain on our managerial, administrative, technical, operational and financial resources. Our organization, procedures and management may not be adequate to fully support the expansion of our operations or the efficient execution of our business strategy. If we are unable to manage future expansion effectively, our business, operations and financial condition may suffer significantly, resulting in decreased productivity.

We may experience significant fluctuations in raw material prices and the price of our principal product, either of which could have a material adverse effect on our liquidity, growth prospects and results of operations. Used LABs are our primary raw material and we believe that in recent years the cost of used LABs has been volatile at times. In addition, we believe that the cost of used LABs can be seasonal, with prices trending lower in the winter months (as automobile owners increase their purchase of new LABs, thereby putting a greater number of used LABs on the market) and trend higher in the spring (as the purchase of new LABs, and supply of used LABs, decreases). Our principal product, recycled lead, has also experienced price volatility from time to time as well. For example, the market price of lead on the London Metal Exchange, or LME, during 2017 ranged from approximately \$2,000 to \$2,600 per tonne. While we intend to pursue supply and tolling arrangements as appropriate to offset any price volatility, the volatile nature of prices for used LABs and recycled lead could have an adverse impact on our liquidity, growth prospects and results of operations.

Global economic conditions could negatively affect our prospects for growth and operating results. Our prospects for growth and operating results will be directly affected by the general global economic conditions of the industries in which our suppliers, partners and customer groups operate. We believe that the market price of our principal product, recycled lead, is relatively volatile and reacts to general global economic conditions. Lead prices decreased from \$2,139 per tonne on May 5, 2015 to a low of \$1,554 per tonne on November 23, 2015 because of fluctuations in the market. A month later, the price per tonne increased back up to \$1,801 per tonne; the price per tonne was \$2,411 on March 31, 2018. Our business will be highly dependent on the economic and market conditions in each of the geographic areas in which we operate. These conditions affect our business by reducing the demand for LABs and decreasing the price of lead in times of economic down turn and increasing the price of used LABs in times of increasing demand of LABs and recycled lead. There can be no assurance that global economic conditions will not negatively impact our liquidity, growth prospects and results of operations.

We are subject to the risks of conducting business outside the United States. A part of our strategy involves our pursuit of growth opportunities in certain international market locations. We intend to pursue licensing or joint venture arrangements with local partners who will be primarily responsible for the day-to-day operations. Any expansion outside of the US will require significant management attention and financial resources to successfully develop and operate any such facilities, including the sales, supply and support channels, and we cannot assure you that we will be successful or that our expenditures in this effort will not exceed the amount of any resulting revenues. Our international operations expose us to risks and challenges that we would otherwise not face if we conducted our business only in the United States, such as:

- increased cost of enforcing our intellectual property rights;
- heightened price sensitivities from customers in emerging markets;
- our ability to establish or contract for local manufacturing, support and service functions;
- localization of our LABs and components, including translation into foreign languages and the associated expenses;
- compliance with multiple, conflicting and changing governmental laws and regulations;
- foreign currency fluctuations;
- laws favoring local competitors;
- weaker legal protections of contract terms, enforcement on collection of receivables and intellectual property rights and mechanisms for enforcing those rights;

- market disruptions created by public health crises in regions outside the United States;
- difficulties in staffing and managing foreign operations, including challenges presented by relationships with workers' councils and labor unions;
- issues related to differences in cultures and practices; and
- changing regional economic, political and regulatory conditions.

U.S. Government regulation and environmental, health and safety concerns may adversely affect our business. Our operations in the United States will be subject to the Federal, State and local environmental, health and safety laws applicable to the reclamation of lead acid batteries. Our facilities will have to obtain environmental permits or approvals to operate, including those associated with air emissions, water discharges, and waste management and storage. We may face opposition from local residents or public interest groups to the installation and operation of our facilities. In addition to permitting requirements, our operations are subject to environmental health, safety and transportation laws and regulations that govern the management of and exposure to hazardous materials such as the lead and acids involved in battery reclamation. These include hazard communication and other occupational safety requirements for employees, which may mandate industrial hygiene monitoring of employees for potential exposure to lead. Failure to comply with these requirements could subject our business to significant penalties (civil or criminal) and other sanctions that could adversely affect our business.

In the event we are unable to present and operate our AquaRefining process and operations as safe and environmentally responsible, we may face opposition from local governments, residents or public interest groups to the installation and operation of our facilities.

The development of new AquaRefining facilities by us or our partners or licensees, and the expansion of our operations at TRIC, will depend on our ability to acquire necessary permits and approvals, of which there can be no assurance. As noted above, our AquaRefining facilities will have to obtain environmental permits or approvals to operate, including those associated with air emissions, water discharges, and waste management and storage. In addition, we expect that our planned expansion of AquaRefining operations at TRIC will require additional permitting and approvals. Failure to secure (or significant delays in securing) the necessary permits and approvals could prevent us and our partners and licensees from pursuing additional AquaRefining facilities or expanding operations at TRIC, and otherwise adversely affect our business, financial results and growth prospects. Further, the loss of any necessary permit or approval could result in the closure of an AquaRefining facility and the loss of our investment associated with such facility.

Our business involves the handling of hazardous materials and we may become subject to significant fines and other liabilities in the event we mishandle those materials. The nature of our operations involves risks, including the potential for exposure to hazardous materials such as lead, that could result in personal injury and property damage claims from third parties, including employees and neighbors, which claims could result in significant costs or other environmental liability. Our operations also pose a risk of releases of hazardous substances, such as lead or acids, into the environment, which can result in liabilities for the removal or remediation of such hazardous substances from the properties at which they have been released, liabilities which can be imposed regardless of fault, and our business could be held liable for the entire cost of cleanup even if we were only partially responsible. We are also subject to the possibility that we may receive notices of potential liability in connection with materials that were sent to third-party recycling, treatment, and/or disposal facilities under the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), and comparable state statutes, which impose liability for investigation and remediation of contamination without regard to fault or the legality of the conduct that contributed to the contamination, and for damages to natural resources. Liability under CERCLA is retroactive, and, under certain circumstances, liability for the entire cost of a cleanup can be imposed on any responsible party. Any such liability could result in judgments or settlements that restrict our operations in a manner that materially adversely affects our operations and could result in fines, penalties or awards that could materially impair our financial condition and even threaten our continued operation as a going concern.

We will be subject to foreign government regulation and environmental, health and safety concerns that may adversely affect our business. As our business expands outside of the United States, our operations will be subject to the environmental, health and safety laws of the countries where we do business, including permitting and compliance requirements that address the similar risks as do the laws in the United States, as well as international legal requirements such as those applicable to the transportation of hazardous materials. Depending on the country or region, these laws could be as stringent as those in the US, or they could be less stringent or not as strictly enforced. In some countries in which we are interested in expanding our business, such as Mexico and China, the relevant environmental regulatory and enforcement frameworks are in flux and subject to change. Compliance with these requirements will cause our business to incur costs, and failure to comply with these requirements could adversely affect our business.

In the event we are unable to present and operate our AquaRefining process and operations as safe and environmentally responsible, we may face opposition from local governments, residents or public interest groups to the installation and operation of our facilities.

Risks Related to Owning Our Common Stock

Securities class action lawsuits and shareholder derivative lawsuit are pending against us and could have a material adverse effect on our business, results of operations and financial condition. Eight putative class action lawsuits and shareholder derivative lawsuit are pending against us and certain of our directors and officers. These lawsuits may divert financial and management resources that would otherwise be used to benefit our operations. Although we deny the material allegations in the lawsuits and intend to defend ourselves vigorously, defending the lawsuits could result in substantial costs. No assurances can be given that the results of these matters will be favorable to us. An adverse resolution of any of these lawsuits could have a material adverse effect on our results of operations and financial condition. In addition, we may be the target of securities-related litigation in the future, both related and unrelated to the existing class action and shareholder derivative lawsuits. Such litigation could divert our management's attention and resources, result in substantial costs, and have an adverse effect on our business, results of operations and financial condition.

We maintain director and officer insurance that we regard as reasonably adequate to protect us from potential claims; however, we cannot assure you that it will. Further, as a result of the pending litigation the costs of insurance may increase and the availability of coverage may decrease. As a result, we may not be able to maintain our current levels of insurance at a reasonable cost, or at all, which might make it more difficult to attract qualified candidates to serve as executive officers or directors.

Our common stock is thinly traded and our share price has been volatile. Our common stock has traded on the Nasdaq Capital Market, under the symbol "AQMS", since July 31, 2015. Since that date, our common stock has at times been relatively thinly traded and subject to price volatility. There can be no assurance that we will be able to successfully maintain a liquid market for our common shares. The stock market in general, and early stage public companies in particular, has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of such companies. If we are unable to develop and maintain a liquid market for our common shares, you may not be able to sell your common shares at prices you consider to be fair or at times that are convenient for you, or at all. In addition, following periods of volatility in the market price of a company's securities, litigation has often been brought against that company and we may become the target of litigation as a result of price volatility. Litigation could result in substantial costs and divert our management's attention and resources from our business. This could have a material adverse effect on our business, results of operations and financial condition.

We are an "emerging growth company" under the JOBS Act of 2012 and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make our common stock less attractive to investors. We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012 ("JOBS Act"), and we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including, but not limited to:

- not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act;
- reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements;
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments; and
- extended transition periods available for complying with new or revised accounting standards.

We have chosen to "opt out" of the extended transition periods available for complying with new or revised accounting standards, but we intend to take advantage of all of the other benefits available under the JOBS Act, including the exemptions discussed above. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

We will remain an "emerging growth company until 2020, although we will lose that status sooner if our revenues exceed \$1 billion, if we issue more than \$1 billion in non-convertible debt in a three-year period, or if the market value of our common stock that is held by non-affiliates exceeds \$700 million as of June 30.

Our status as an "emerging growth company" under the JOBS Act may make it more difficult to raise capital as and when we need it. Because of the exemptions from various reporting requirements provided to us as an "emerging growth company," we may be less attractive to investors and it may be difficult for us to raise additional capital as and when we need it. Investors may be unable to compare our business with other companies in our industry if they believe that our reporting is not as transparent as other companies in our industry. If we are unable to raise additional capital as and when we need it, our financial condition and results of operations may be materially and adversely affected.

We have not paid dividends in the past and have no plans to pay dividends. We plan to reinvest all of our earnings, to the extent we have earnings, in order to develop our recycling centers and cover operating costs and to otherwise become and remain competitive. We do not plan to pay any cash dividends with respect to our securities in the foreseeable future. We cannot assure you that we would, at any time, generate sufficient surplus cash that would be available for distribution to the holders of our common stock as a dividend. Therefore, you should not expect to receive cash dividends on our common stock.

Shares eligible for future sale may adversely affect the market for our common stock. Of the 28,694,210 shares of our common stock outstanding as of the date of this report, approximately 25,699,794 shares are held by “non-affiliates” and are freely tradable without restriction pursuant to Rule 144. In addition, in August 2016, we filed with the SEC a Registration Statement on Form S-3 for purposes of registering the resale of 3,711,872 shares of restricted common stock sold to Interstate Battery in May 2016, including 3,009,625 shares of common stock issuable to Interstate Battery upon exercise of its warrants and conversion of its convertible note, and in February 2017, we filed with the SEC a Registration Statement on Form S-3 for purposes of registering the resale of the 939,005 shares of restricted common stock we sold to Johnson Controls in February 2017. Both registration statements were declared effective by the SEC and the shares registered thereunder are eligible for sale without restriction. Any substantial sale of our common stock pursuant to Rule 144 or pursuant to any resale prospectus may have a material adverse effect on the market price of our common stock.

Our charter documents and Delaware law may inhibit a takeover that stockholders consider favorable. Provisions of our certificate of incorporation and bylaws and applicable provisions of Delaware law may delay or discourage transactions involving an actual or potential change in control or change in our management, including transactions in which stockholders might otherwise receive a premium for their shares, or transactions that our stockholders might otherwise deem to be in their best interests. The provisions in our certificate of incorporation and bylaws:

- limit who may call stockholder meetings;
- do not permit stockholders to act by written consent;
- do not provide for cumulative voting rights; and
- provide that all vacancies may be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum.

In addition, Section 203 of the Delaware General Corporation Law may limit our ability to engage in any business combination with a person who beneficially owns 15% or more of our outstanding voting stock unless certain conditions are satisfied. This restriction lasts for a period of three years following the share acquisition. These provisions may have the effect of entrenching our management team and may deprive you of the opportunity to sell your shares to potential acquirers at a premium over prevailing prices. This potential inability to obtain a control premium could reduce the price of our common stock.

Our bylaws designate the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain litigation that may be initiated by our stockholders, which could limit our stockholders’ ability to obtain a favorable judicial forum for disputes with the Company. Our bylaws provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders, (iii) any action asserting a claim against us or any our directors, officers or other employees arising pursuant to any provision of the Delaware General Corporation Law or our certificate of incorporation or bylaws, or (iv) any action asserting a claim against us or any our directors, officers or other employees governed by the internal affairs doctrine. This forum selection provision in our bylaws may limit our stockholders’ ability to obtain a favorable judicial forum for disputes with us or any our directors, officers or other employees.

Item 6. Exhibits

Exhibit No.	Description	Method of Filing
<u>3.1</u>	<u>First Amended and Restated Certificate of Incorporation of the Registrant</u>	Incorporated by reference from the Registrant's Registration Statement on Form S-1 filed on July 22, 2015.
<u>3.2</u>	<u>Amended and Restated Bylaws of the Registrant</u>	Incorporated by reference from the Registrant's Registration Statement on Form S-1 filed on June 9, 2015.
<u>3.3</u>	<u>Certificate of Amendment to First Amended and Restated Certificate of Incorporation of the Registrant</u>	Incorporated by reference from the Registrant's Registration Statement on Form S-1 filed on June 9, 2015.
<u>10.1*</u>	<u>Executive Employment Agreement dated April 12, 2018 between Francis Knuettel II and Registrant</u>	Incorporated by reference from the Registrant's Current Report on Form 8-K filed on April 12, 2018.
<u>10.2</u>	<u>Amendment to the Equipment Supply Agreement dated April 16, 2018 between the Registrant and Johnson Controls Battery Group, Inc.</u>	Filed electronically herewith.
<u>10.3*</u>	<u>Separation Agreement and Release dated April 19, 2018 between the Registrant and Stephen Clarke</u>	Incorporated by reference from the Registrant's Current Report on Form 8-K filed on April 19, 2018.
<u>10.4</u>	<u>Letter Agreement dated May 2, 2018 between David L. Kanen, Kanen Wealth Management LLC and the Registrant</u>	Incorporated by reference from the Registrant's Current Report on Form 8-K filed on May 2, 2018
<u>10.5*</u>	<u>Employment Agreement dated May 2, 2018, between Aqua Metals, Inc. and Stephen Cotton</u>	Incorporated by reference from the Registrant's Current Report on Form 8-K filed on May 2, 2018
<u>31.1</u>	<u>Certifications Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>	Filed electronically herewith
<u>31.2</u>	<u>Certifications Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u>	Filed electronically herewith
<u>32.1</u>	<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

* Indicates management compensatory plan, contract or arrangement.

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 9, 2018

By: /s/ Selwyn Mould

Selwyn Mould,
President and Chief Executive Officer

Date: May 9, 2018

By: /s/ Thomas Murphy

Thomas Murphy,
Chief Financial Officer

FIRST AMENDMENT TO EQUIPMENT SUPPLY AGREEMENT

THIS FIRST AMENDMENT TO EQUIPMENT SUPPLY AGREEMENT (this “Amendment”), dated as of April 16, 2018, is made by and between Johnson Controls Battery Group, Inc., a Wisconsin corporation (“Customer”), and Aqua Metals, Inc., a Delaware corporation (“Supplier”). Capitalized terms used and not otherwise defined in this Amendment shall have the meanings given to them in the Agreement (as defined below).

RECITALS:

WHEREAS, Customer and Supplier entered into that certain Equipment Supply Agreement (the “Agreement”), dated as of February 7, 2017, pursuant to which the Parties agreed to collaborate with respect to the development of new Customer facilities, or the retrofitting or conversion of existing Customer 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 amend the Agreement on the terms and subject to the conditions set forth herein.

AGREEMENT:

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

1. Amendment to Agreement. As of the date hereof, the Agreement shall be amended as follows:

1.1 Section 2.2 of the Agreement is hereby amended by (a) replacing the reference to April 30, 2018 with April 30, 2019 and (b) replacing the reference to June 30, 2018 with June 30, 2019.

1.2 Section 6.1 of the Agreement is hereby amended by replacing the reference to June 30, 2018 with June 30, 2019.

2. Effect of this Amendment. This Amendment constitutes the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior oral or written communications, memoranda, proposals, negotiations, discussions, term sheets and commitments with respect to the subject matter hereof. Except as expressly provided herein, no other changes or modifications to the Agreement are intended or implied by this Amendment, and in all other respects the Agreement is hereby ratified, restated and confirmed by all parties hereto and shall remain in full force and effect. To the extent that any provision of the Agreement conflicts with any provision of this Amendment, the provision of this Amendment shall control.

3 . Governing Law. The validity, interpretation and enforcement of this Amendment whether in contract, tort, equity or otherwise, shall be governed by the laws of the State of Delaware, without giving effect to its conflict of law principles.

4 . Binding Effect. This Amendment shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

5 . Counterparts. This Amendment may be executed in separate counterparts (including by means of facsimile or electronic transmission), each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

6 . Delivery by Facsimile or Electronic Transmission. This Amendment, to the extent signed and delivered by means of a facsimile machine or electronic transmission, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any Party, the other Party shall re-execute original forms thereof and deliver them to the other Party. No Party shall raise the use of a facsimile machine or electronic transmission to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic transmission as a defense to the formation of a contract and each Party forever waives any such defense.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date first written above.

CUSTOMER:

JOHNSON CONTROLS BATTERY GROUP, INC.

By: /s/ Thomas Parmenter

Thomas Parmenter,
Vice President of Operations

SUPPLIER:

AQUA METALS, INC.

By: /s/ Thomas Murphy

Thomas Murphy,
Chief Financial Officer

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

Section 302 Certification

I, Selwyn Mould, 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 9, 2018

By: /s/ Selwyn Mould

Selwyn Mould, 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 9, 2018

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, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Selwyn Mould, 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/ Selwyn Mould Dated: May 9, 2018

Selwyn Mould

Title: President and Chief Executive Officer

By: /s/ Thomas Murphy Dated: May 9, 2018

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.
