



Lead Plaintiff alleged claims under the Securities and Exchange Act of 1934 (“Exchange Act”) and the Securities Act of 1933 (“Securities Act”). The Court sustained Lead Plaintiff’s Section 10(b), Rule 10b-5(a) and (c) scheme liability claims and Section 20(a) control person liability claim as it relates to the scheme liability claim. The Court dismissed Lead Plaintiff’s Section 10(b) and Rule 10b-5(b) misrepresentation claim, Section 20(a) as it relates to the misrepresentation claim, and Section 11 and Section 15 claims.

Aqua Metals and the Individual Defendants deny all liability and believe they would win the case at trial. Lead Plaintiff and Defendants do not agree on the average amount of damages per share that would be recoverable if the Lead Plaintiff were to have prevailed on each claim alleged. The issues on which the parties disagree include, among other things: (1) the extent to which the various matters that Lead Plaintiff allege were materially false or misleading influenced (if at all) the trading price of Aqua Metals common stock at various times during the Settlement Class Period; (2) the extent to which the various allegedly adverse material facts which were omitted influenced (if at all) the trading price of Aqua Metals common stock at various times during the Settlement Class Period; (3) the appropriate class period for the surviving claims; (4) whether any of the Defendants acted with the wrongful intent alleged by Lead Plaintiff; and (5) whether, even if liability could be proven, total damages would be more than \$0 per damaged share.

If you are a Settlement Class Member (as the term is defined below), your legal rights are affected by the Settlement, regardless of whether you act or do not act. **Read this notice carefully.**

<b>Your Legal Rights and Options</b>	
<b>You can:</b>	<b>That Means:</b>
<b>Submit a Claim Form Postmarked by January 18, 2022</b>	You can show that you are a Settlement Class Member and can get payment from the Settlement. If the proposed Settlement is finally approved by the Court, you may share in the proceeds if your Claim Form is received, timely and valid, and you meet the other requirements of the Plan of Allocation described on pages 10 to 14 below. This is the only way to get a payment. You will be bound by the Judgment and release described below if you stay in the Settlement Class regardless of whether you submit a Claim Form.
<b>Exclude Yourself by Submitting a Written Request for Exclusion Postmarked by January 3, 2022</b>	You can ask to be excluded from the Settlement Class. If excluded, you will get no payment from this Settlement and will not be part of the Settlement Class, and will not be bound by any Judgment. This is the only option that allows you to ever be part of any other separate lawsuit, including your own lawsuit, against any of Defendants about the legal claims being settled in this case.
<b>Object by Filing a Written Objection with the Court no later than January 3, 2022</b>	If you remain part of the Settlement Class but have an objection to the Settlement, or some part of it, or the requested attorneys’ fees or Litigation Expenses or request for an award to Lead Plaintiff for its costs and expenses, you can write to the Court to explain why.
<b>Go to a Hearing on February 3, 2022</b>	If you remain part of the Settlement Class, you can write to the Court and ask to speak at the Final Approval Hearing on <b>February 3, 2022</b> when the Court considers the fairness of the Settlement, the request for attorneys’ fees and reimbursement of Litigation Expenses of Lead Counsel and the request for an award to Lead Plaintiff for its costs and expenses.
<b>Do Nothing</b>	You will get no payment and give up your rights to sue Defendants about the claims that are resolved by this Settlement. You will be bound by any Judgment entered by the Court.

These rights and options – **and the deadlines to exercise them** – are explained in this Notice.

While the Court in charge of this case has given preliminary approval to the Settlement, it still has to decide whether to give final approval of the Settlement (subject to any appeals) as fair, reasonable and adequate.

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## **BASIC INFORMATION**

### **1. Why did I get this Notice package?**

You or someone in your family may have purchased Aqua Metals common stock or options to purchase common stock of Aqua Metals during the period between May 19, 2016 and November 9, 2017.

The Court caused this Notice to be sent to you because you have a right to know about a proposed Settlement of a class action lawsuit, a hearing to be held by the Court to consider the fairness, reasonableness and adequacy of the Settlement, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement and after any objections or appeals are resolved, a Claims Administrator appointed by the Court will make the payments that the Settlement allows.

This Notice explains this Action, the Settlement, your legal rights, what benefits are available, who is eligible for them and how to get them. It is not an expression of any opinion by the Court with respect to the truth of the allegations of the litigation or the merits of the claims or defenses asserted.

The Court in charge of the case is the United States District Court for the Northern District of California, and the case is known as *In re Aqua Metals, Inc. Securities Litigation*, Case No. 4:17-cv-07142. The Honorable Haywood S. Gilliam Jr. is the Judge in charge of this class action. The person who sued is called the "Lead Plaintiff." The company being sued, Aqua Metals, Inc., and the persons who are being sued, Aqua Metals' former executive officers, Stephen R. Clarke, Thomas Murphy and Selwyn Mould, are called the "Defendants."

### **2. What is this Action about?**

In the Action, Lead Plaintiff alleges that Defendants unlawfully inflated Aqua Metals' stock price by misleading investors about its AquaRefining lead recycling technology and engaging in a scheme whereby Defendants orchestrated on-site visits and demonstrations

at Aqua Metals' facilities that deliberately concealed problems concerning the testing, development, commercialization and operations of its AquaRefining technology. Lead Plaintiff alleges that the misleading nature of Defendants' scheme and statements remained hidden until a series of partial disclosures beginning on May 9, 2017 and ending on November 9, 2017, revealed, *inter alia*, that the AquaRefining technology was unproven, persistently malfunctioned and faced fundamental operational issues. Defendants vigorously contest Lead Plaintiff's allegations.

Beginning on December 15, 2017, three class action complaints were filed in the United States District Court for the Northern District of California. These three cases were consolidated under case number 4:17-cv-07142 for all purposes by an order dated March 29, 2018. By separate order, on May 23, 2018, this Court appointed the Plymouth County Group as Lead Plaintiff for the Settlement Class; and approved Lead Plaintiff's choice of the law firms of Berman Tabacco and Levi & Korsinsky, LLP as Lead Counsel (collectively, "Lead Counsel") in the class action.

On July 20, 2018, after extensive investigation by Lead Counsel, Lead Plaintiff filed a Consolidated Complaint For Violations of Securities Laws alleging claims under the Exchange Act and the Securities Act. On September 28, 2018, all defendants named in that complaint moved the Court to dismiss the Consolidated Complaint. On August 14, 2019, the Court granted in part and denied in part defendants' motion to dismiss, denying defendants' motion to dismiss the Section 10(b), Rule 10b-5(a) and (c) scheme liability claim and Section 20(a) control person liability claim to the extent premised thereupon, while granting defendants' motion to dismiss the Section 10(b), Rule 10b-5(b), Section 11, and Section 15 claim with leave to amend.

On September 20, 2019, after further investigation and refinement of the claims, Lead Plaintiff filed the First Amended Complaint for Violation of Federal Securities Laws ("Complaint"), which is the operative complaint in this Action. The Complaint alleges that Defendants violated Section 10(b), Rule 10b-5(a) and (c) of the Exchange Act (scheme liability claim), Section 10(b), Rule 10b-5(b) of the Exchange Act (misrepresentation claim), and that the Individual Defendants also violated Section 20(a) of the Exchange Act. The Complaint asserts only Exchange Act claims.

On November 1, 2019, Defendants filed a motion to dismiss the Complaint's Section 10(b), Rule 10b-5(b) misrepresentation claim and the Section 20(a) control person claim as it relates to the misrepresentation claim. Lead Plaintiff thereafter opposed the motion on December 6, 2019. On November 16, 2020, the Court issued its Order granting Defendants' Motion to Dismiss and dismissed the Section 10(b), Rule 10b-5(b) misrepresentation claim and the Section 20(a) control person claim as it relates to the misrepresentation claim. Lead Plaintiff's prior sustained scheme liability claim under Section 10(b), Rule 10b-5(a) and (c) and Section 20(a) control person liability as it relates to the scheme liability claim remained actionable.

On December 9, 2020, the parties engaged in intensive, arm's-length settlement negotiations under the close supervision of an experienced mediator. Although the parties were unable to reach a settlement at the mediation, they continued to engage in arm's-length settlement negotiations through the mediator.

The parties attended a Case Management Conference on February 9, 2021 and March 16, 2021. Thereafter, the parties exchanged initial disclosures, Defendants filed their Answer, and Lead Plaintiff served interrogatories and requests for production on Defendants.

On April 8, 2021, the parties agreed to a mediator's proposal of \$7 million for the Settlement of this action. On July 2, 2021, the parties executed a Stipulation memorializing the Settlement amount and other key terms to settle this Action.

### **3. What is a class action?**

In a class action, the plaintiff is called the "Class Representative," and he/she sues on behalf of numerous people who have similar claims. All these people with similar claims are called a "class," and each one is a "class member." The court resolves the claims of all class members, except for those who properly exclude themselves from the class.

### **4. Why is there a Settlement?**

Instead of litigating the Action through trial, Lead Plaintiff and Defendants, after an intensive, arm's-length negotiation under the supervision of an experienced mediator and in response to a mediator's proposal, agreed to a compromise of the claims for \$7 million. The Court did not decide in favor of Lead Plaintiff or Defendants. Lead Plaintiff thinks it could have obtained money if it won a trial; the Defendants believe Lead Plaintiff would not have won anything from a trial. But there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the risks and costs of a trial and possible appeals, and Settlement Class Members affected will get compensation. The Lead Plaintiff, as Class Representative, and the Lead Counsel believe the Settlement is best for all Settlement Class Members.

Lead Plaintiff believes that the proposed Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class. Throughout the litigation, Defendants raised a number of arguments and defenses (which they would continue to do through summary judgment and trial) including that the class period for the surviving claims should start on May 31, 2017, which Defendants argue is the date of the first site visit and would significantly reduce potential damages. Defendants further argue that any losses suffered by Lead Plaintiff and the Settlement Class Members were not caused by the misconduct alleged in the Complaint. Defendants would also likely argue that, even if Lead Plaintiff could establish liability, it would have trouble showing what part of the stock-price decline is attributable to the alleged fraud rather than other Company-specific bad news. While Lead Plaintiff believes that these arguments lack

merit, there is no guarantee that Defendants would not prevail on one or more of these arguments. In the absence of a Settlement, the Settling Parties would present factual and expert testimony on each of these issues, and there is considerable risk that the Court or jury would resolve these issues against Lead Plaintiff and the Settlement Class.

Lead Counsel have thoroughly investigated and litigated the case prior to and since its appointment as Lead Counsel in 2018. Based upon their extensive investigation, their consultation with multiple experts, and their evaluation of the claims asserted against the Defendants and defenses that might be asserted, Lead Counsel believes that the Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class. The Settlement provides an immediate and certain monetary recovery. By settling, Lead Plaintiff and Defendants avoid the cost, uncertainty and delay of continued litigation. The parties engaged in extensive negotiations that led to the Settlement described in this Notice. Lead Counsel believe the Settlement is fair because there is no guarantee the Settlement Class would win on any of the claims and even if they did win, they might not be awarded any more money than the \$7 million plus interest, as provided for in the Stipulation, that Defendants have agreed to in order to settle the Action. Defendants' lawyers believe the Settlement is fair because even though Defendants deny Lead Plaintiff's claims, Defendants avoid the cost of continued litigation and risk of losing at trial.

## WHO IS INCLUDED IN THE SETTLEMENT?

### 5. How do I know if I am a Settlement Class Member?

For the purposes of settlement, with the few exceptions listed below, everyone who fits the following description is a Settlement Class Member: All persons who purchased or otherwise acquired common stock or options to purchase common stock of Aqua Metals, Inc. during the Settlement Class Period, May 19, 2016 to November 9, 2017, inclusive.

### 6. Are there any exceptions to being included as a Settlement Class Member?

Yes. You are **not** a Settlement Class Member if **any** of the following applies to you:

- a. You are a Defendant.
- b. You are a member of Defendants' immediate families.
- c. You are a subsidiary or affiliate of Defendants.
- d. You served as an officer, director and/or controlling person of Aqua Metals at any time during the Settlement Class Period.
- e. You are an entity in which Defendants have or had a controlling interest.
- f. You are Defendants' directors' and officers' liability insurance carriers, or any affiliates or subsidiaries thereof.
- g. You are a legal representative, heir, successor or assign of any of the foregoing.
- h. You properly exclude yourself from the Settlement Class.

### 7. I am still not sure if I'm included.

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator at 877-777-9255 or email at [info@AquaMetalsSecuritiesLitigation.com](mailto:info@AquaMetalsSecuritiesLitigation.com) or you can fill out the Claim Form described in question 10, to see if you qualify. You can also contact Lead Counsel at the addresses and phone numbers listed below. Please do not contact the Court.

## THE SETTLEMENT BENEFITS

### 8. What does the Settlement provide?

Defendants have paid or will pay \$7 million, consisting of \$6.5 million in cash and \$500,000 in Aqua Metals common stock or cash, into an escrow account that will earn interest, as provided for in the Stipulation, for the benefit of the Settlement Class (the "Settlement Fund"). After deduction of Taxes, Notice and Administration Costs, Litigation Expenses awarded by the Court, attorneys' fees awarded by the Court, any award to Lead Plaintiff for its costs and expenses, and any other costs, expenses or amounts as may be approved by the Court, the balance (the "Net Settlement Fund") will be distributed to the Settlement Class Members in accordance with the Plan of Allocation, discussed at pages 10 to 14 below.

In exchange for Defendants' payment, the claims described in response to question number 12 below, "*What am I giving up to get a payment or stay in the Settlement Class?*" will be released, discharged and dismissed with prejudice.

The proposed Settlement represents a compromise of disputed claims and does not mean that any of the Defendants have been found liable for any claims asserted by Lead Plaintiff. The Defendants specifically deny any liability on their part and settled this case to avoid the expense and uncertainty of complex litigation.

## 9. How much will my payment be?

Your share of the Net Settlement Fund will depend on the number of valid and timely Claim Forms that Settlement Class Members send in, how many shares of Aqua Metals common stock or options to purchase Aqua Metals common stock you bought, and when you bought and sold them. You should look at the Plan of Allocation section of this notice that appears on pages 10 to 14 below for a description of the calculations to be made by the Claims Administrator in computing the amounts to be paid to the “Authorized Claimants,” that is those investors who submit valid and timely Claim Forms establishing that they are Settlement Class Members.

## 10. How can I get a payment?

To qualify for payment, you must timely send in a Claim Form to the Claims Administrator. A Claim Form is attached to this Notice. Read the instructions carefully, fill out the Claim Form, include all the documents the form asks for, sign it and mail it postmarked no later than **January 18, 2022**. Unless the Court orders otherwise, if you do not timely submit a Claim Form, you will be barred from receiving any payments from the Net Settlement Fund, but will in all other respects be bound by the final Judgment in the case.

## 11. When would I get my payment?

The Settlement is conditioned on two main events: (a) the entry of the Final Judgment by the Court, as provided for in the Stipulation, after the Court holds a Final Approval Hearing to decide whether to approve the Settlement; and (b) the expiration of the applicable period to file all appeals from the judgment. If the Settlement is approved, it is possible there may be an appeal by someone. There is always uncertainty as to how these appeals will be resolved, and resolving them can take time, perhaps more than a year. Also, if certain conditions of the Settlement described in the Stipulation are not met, the Settlement will be terminated and become null and void. In addition, the Claims Administrator will need time to process all of the timely claims before any distribution can be made.

## 12. What am I giving up to get a payment or stay in the Settlement Class?

As a member of the Settlement Class, in consideration for the benefits of the Settlement, you will be bound by the terms of the Settlement, and you will release Defendants and the other Released Persons (collectively, the “Released Persons” as defined below) from the Released Claims as defined below.

“Defendant Releasees” means, collectively, each and all of (a) Defendants, (b) the present and former parents, subsidiaries, divisions and affiliates of Aqua Metals, (c) the present and former employees, officers and directors of each of them, (d) the present and former attorneys, accountants, insurers and agents of each of them, and (e) the predecessors, heirs, successors and assigns of each of them.

“Plaintiff Releasees” means (a) Lead Plaintiff, its attorneys and all other Settlement Class Members; (b) the current and former parents, officers, directors, affiliates, subsidiaries, successors, predecessors, assigns assignees and immediate family members of each of the foregoing in (a); and (c) for each and every Person listed in part (a), their respective past, present and future heirs, executors, administrators, predecessors, successors, assigns, employees, agents, affiliates, analysts, assignees, associates, attorneys, auditors, co-insurers, commercial bank lenders, consultants, controlling shareholders, directors, divisions, domestic partners, employers, financial advisors, general or limited partners, general or limited partnerships, insurers, investment advisors, investment bankers, investment banks, joint ventures and joint venturers, managers, managing directors, marital communities, members, officers, parents, personal or legal representatives, principals, reinsurers, shareholders, spouses, subsidiaries (foreign or domestic), trustees, underwriters, and retained professionals, in their respective capacities as such.

“Plaintiffs’ Released Claims” means, collectively, any and all claims, demands, rights, liabilities, suits, debts, obligations and causes of action, of every nature and description whatsoever, whether known or Unknown (as described below), that have been or could have been asserted in this Action or could in the future be asserted in any forum, whether foreign or domestic, whether arising under federal, state, common or foreign law, by Lead Plaintiff, any member of the Class or their successors, assigns, executors, administrators, representatives, attorneys and agents, in their capacities as such, whether brought directly or indirectly against any of the Defendants, which (a) arise out of, are based upon or relate to in any way any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in this Action, or which could have been alleged in this action, and (b) arise out of, are based upon, or relate to in any way the purchase, acquisition, holding, sale or disposition of any Aqua Metals Securities (defined below) during the Class Period. The Settlement shall include a waiver of Lead Plaintiff’s and Settlement Class Members’ rights under California Civil Code §1542 or similar laws. Notwithstanding the foregoing, “Plaintiffs’ Released Claims” do not include: (a) claims relating to the enforcement of the Settlement; or (b) claims asserted on behalf of Aqua Metals in any derivative action based on similar allegations, including but not limited to claims in *In re Aqua Metals, Inc. Stockholder Derivative Litigation*, Master File No. 1:18-cv-00201 (D. Del. 2018) (collectively, “Excluded Plaintiffs’ Claims”).

“Defendants’ Released Claims” means, collectively, any and all claims, demands, losses, rights and causes of action of any nature whatsoever, whether known or Unknown (as described below), that could have been asserted in this Action or could in the future be asserted in any forum, whether foreign or domestic, whether arising under federal, state, common or foreign law, by Defendant Releasees against Plaintiff Releasees that arise out of or relate to the commencement, prosecution or settlement of the claims asserted in the Action. The Settlement shall include a waiver of Defendants’ and Defendant Releasees rights under California Civil Code §1542

or similar laws. Notwithstanding the foregoing, “Defendants’ Released Claims” does not include: (a) claims relating to the enforcement of the Settlement; or (b) any claims against any person or entity who submits a request for exclusion from the Settlement Class that is accepted by the Court (collectively, “Excluded Defendants’ Claims”).

“Released Claims” means all Defendants’ Released Claims and all Plaintiffs’ Released Claims.

“Unknown Claims” means, collectively, any and all of Plaintiffs’ Released Claims that the Lead Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Defendant Releasees, and any of Defendants’ Released Claims that any Defendant does not know or suspect to exist in his, her or its favor at the time of the release of the Plaintiff Releasees even if such Claim, if known by him, her or it, might have affected his, her or its decision to enter into this Settlement or might have affected his, her or its decision not to object to this Settlement or not exclude himself, herself or itself from the Settlement Class. Unknown Claims include, without limitation, those Released Claims in which some or all of the facts composing the Claim may be unsuspected, undisclosed, concealed or hidden. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiff and Defendants shall expressly waive and relinquish, and each Settlement Class Member and Defendant Releasees shall be deemed to have and by operation of law and of the Judgment shall have expressly waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by California Civil Code §1542, which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

Lead Plaintiff and Defendants further expressly waive and relinquish, and each Settlement Class Member and each Defendant Releasees shall be deemed to have and by operation of law and of the Judgment shall have expressly waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law or of international or foreign law, that is similar, comparable or equivalent in effect to California Civil Code §1542. It is understood that Lead Plaintiff and Defendants and each Settlement Class Member and each Defendant Releasee, or any of them, may hereafter discover facts in addition to or different from those that he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but, upon the Effective Date, they shall expressly fully, finally and forever discharge, settle and release, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, grossly negligent, reckless, deliberately reckless or intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiff and Defendants acknowledge, and the Settlement Class Members by operation of law and of the Judgment shall be deemed to have acknowledged, that the foregoing waivers of Released Claims that are Unknown Claims, including the provisions, rights and benefits of §1542 of the California Civil Code (and the inclusion of “Unknown Claims” in the definition of Released Claims) was separately bargained for and is a material element of the Settlement.

If the Court approves the Settlement, all Settlement Class Members who have not excluded themselves in writing will have fully, finally and forever settled and released any and all Released Claims, contingent or non-contingent, that now exist, or heretofore have existed, upon any theory of law or equity that were asserted or could have been asserted in the Action.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 13. How do I get out of the Settlement?

If you do not wish to be included in the Settlement Class and you do not wish to participate in the proposed Settlement described in this Notice, you may request to be excluded. To do so, you must submit a written request for exclusion, post-marked no later than **January 3, 2022**. The request for exclusion must: (a) state the name, address and telephone number of the Person requesting exclusion; (b) identify each of the Person’s purchases or other acquisitions of Aqua Metals common stock or options to purchase Aqua Metals common stock made during the Settlement Class Period, including the dates of each purchase or acquisition, the number of shares or options purchased or otherwise acquired and the price or consideration paid per share or option for each such purchase or acquisition; (c) identify each of the Person’s sales or other disposals of Aqua Metals common stock or options to purchase Aqua Metals common stock made during the Settlement Class Period, including the dates of each sale or disposal, the number of shares or options sold or disposed of and the price or consideration received per share or option for each such sale or disposal; (d) state the number of shares of Aqua Metals common stock or options to purchase Aqua Metals common stock held immediately before the commencement of the Settlement Class Period; and (e) state that the Person wishes to be excluded from the Settlement Class. The request must be addressed as follows:

*In re Aqua Metals, Inc. Securities Litigation*  
Claims Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173001  
Milwaukee WI, 53217

You cannot exclude yourself by phone or by e-mail.

**If you ask to be excluded from the Settlement Class, you will not get any Settlement payment, and you cannot object to the Settlement.** If you exclude yourself, you will not be legally bound by anything that happens in this Action. You may be able to sue (or continue to sue) Aqua Metals and the other Defendants in the future about the claims in this Action.

## THE LAWYERS REPRESENTING YOU

### 14. Do I have a lawyer in this case?

Yes. The Court appointed Berman Tabacco and Levi & Korsinsky, LLP as Lead Counsel to represent all Settlement Class Members. Lead Counsel may be contacted at the addresses and phone numbers listed below:

Kristin Moody  
Berman Tabacco  
44 Montgomery Street, Suite 650  
San Francisco, CA 94104  
Telephone: (415) 433-3200

Shannon L. Hopkins  
Levi & Korsinsky, LLP  
1111 Summer Street, Suite 403  
Stamford, CT 06905  
Telephone: (203) 922-4253

There is no need to retain your own lawyer. If you want to be represented by your own lawyer you may hire one at your own expense.

### 15. How will the lawyers be paid?

At the Final Approval Hearing, Lead Counsel will ask the Court to approve payment of up to 25% of the Settlement Fund, or approximately \$1,750,000, to them for attorneys' fees and a payment of up to \$135,000 to them for reimbursement of Litigation Expenses. These fees and expenses would pay Lead Counsel for investigating the facts, litigating the case and negotiating the Settlement. Lead Plaintiff will also ask for the Court to approve up to \$5,000 in an award to pay the cost and expenses of Lead Plaintiff. The Court may award less than these amounts.

Additionally, at the Final Approval Hearing, Lead Plaintiff will also ask the Court to approve payment of the Claims Administrator's expenses. Those expenses are estimated to be approximately \$120,000 based upon the submission of 5,000 Claim Forms.

## OBJECTING TO THE SETTLEMENT

### 16. How do I tell the Court that I do not like the Settlement?

You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number *In re Aqua Metals, Inc. Securities Litigation*, Case No. 4:17-cv-07142-HSG, and (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, Oakland Division, 1301 Clay Street, Oakland, CA, 94612, or by filing them in person at any location of the United States District Court for the Northern District of California by **January 3, 2022**.

Any objection must further: (a) include the full name, address and phone number of the objecting Settlement Class Member; (b) include a list of all of the Settlement Class Member's Settlement Class Period transactions in Aqua Metals common stock or options to purchase Aqua Metals common stock; and (c) include a written statement of all grounds for the objection.

If you wish to appear in person at the Final Approval Hearing, you must submit to the Court with your objection a Notice of Intention to Appear. If you intend to appear at the Final Approval Hearing through counsel, your objection must also state the identity of all attorneys who will appear at the Final Approval Hearing and your counsel must submit a Notice of Intention to Appear with the objection.

If you do not make your objection in the manner provided, you will be deemed to have waived such objection and forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement or any part thereof.

### 17. What's the difference between objecting and being excluded from the Settlement Class?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

## THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You do not need to attend that hearing, but are welcome to attend if you so desire.

### 18. When and where will the Court decide whether to approve the Settlement?

The Final Approval Hearing will be held on **February 3, 2022, at 2:00 p.m.**, before the Honorable Judge Haywood S. Gilliam Jr., United States District Court for the Northern District of California, either via telephonic or video conference, or in Courtroom 2, 4th Floor, United States Courthouse, 1301 Clay Street, Oakland, California. **THE FINAL APPROVAL HEARING DATE MAY CHANGE WITHOUT FURTHER NOTICE TO THE SETTLEMENT CLASS, SO PLEASE CHECK THE SETTLEMENT WEBSITE OR THE COURT'S PACER SYSTEM TO CONFIRM THE HEARING DATE.** At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate; whether the proposed plan to distribute the Settlement proceeds (the "Plan of Allocation" described on pages 10 to 14 below) is reasonable; whether to approve the application by Lead Counsel for attorneys' fees and reimbursement of Litigation Expenses, and whether to approve the request for an award to Lead Plaintiff for its costs and expenses. If there are objections, the Court will consider them. The Court has discretion to listen to people who have made a written request to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement, the attorneys' fees and reimbursement of Litigation Expenses request, and the request for an award to Lead Plaintiff for its costs and expenses. We do not know how long these decisions will take.

### 19. Do I have to come to the Final Approval Hearing?

No. Lead Counsel will answer questions the Judge may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### 20. May I speak at the Final Approval Hearing?

Any Settlement Class Member who did not request to be excluded from the Settlement Class is entitled to appear at the Final Approval Hearing, in person or through a duly authorized attorney, and to show cause why the Settlement should not be approved as fair, reasonable and adequate. However, you may not be heard at the Final Approval Hearing unless, on or before **January 3, 2022**, you file a Notice of Intention to Appear and a statement of the position that you will assert and the grounds for the position, together with copies of any supporting papers or brief with the Class Action Clerk, United States District Court for the Northern District of California, Oakland Division, 1301 Clay Street, Oakland, California, 94612, as described in question number 16 above.

Only Settlement Class Members who have submitted written notices in this manner may be heard at the Final Approval Hearing, unless the Court orders otherwise.

## IF YOU DO NOTHING

### 21. What happens if I do nothing at all?

If you do nothing, you will get no money from this Settlement but you will be bound by the Settlement and you will not be able to start a lawsuit, continue with a lawsuit or be part of any other lawsuit against the Defendants about the legal issues in this case, ever again.

## GETTING MORE INFORMATION

### 22. Are there more details about the Settlement?

Yes. This Notice summarizes the proposed Settlement. More details (including definitions of various terms used in this Notice) are contained in the pleadings and other papers in this Action, including the formal Stipulation, which have been filed with the Court. Lead Plaintiff's submissions in support of the Settlement, Lead Counsel's fee and expense application, and Lead Plaintiff's request for an award to pay the time and expenses of Lead Plaintiff will be filed with the Court prior to the Final Approval Hearing. In addition, information about the Settlement will be posted on the website set up for this case: [www.AquaMetalsSecuritiesLitigation.com](http://www.AquaMetalsSecuritiesLitigation.com). If you have any further questions, you may contact Lead Counsel identified in question number 14 above. You also can call the Claims Administrator at 877-777-9255 to find answers to common questions about the Settlement and obtain information about the status of the Settlement approval process.

## SPECIAL NOTICE TO NOMINEES

### 23. Special Notice to Banks, Trustees, Brokerage Firms or Other Nominees

If you hold any Aqua Metals Securities (defined below) purchased during the Settlement Class Period as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (a) send a copy of this Notice and the Claim Form by first class mail to all such Persons; or (b) provide a list of the names and addresses of such Persons to the Claims Administrator:

*In re Aqua Metals, Inc. Securities Litigation*  
Claims Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 170125  
Milwaukee WI, 53217

If you choose to mail the Notice and Claim Form yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing. Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for, or advancement of, reasonable costs actually incurred or expected to be incurred in connection with forwarding the Notice and Claim Form and which would not have been incurred but for the obligation to forward the Notice and Claim Form, upon submission of appropriate documentation to the Claims Administrator.

## UNDERSTANDING YOUR PAYMENT – THE PLAN OF ALLOCATION

### A. Introduction to the Plan of Allocation

The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among Authorized Claimants based on their respective alleged economic losses as a result of the alleged fraud, as opposed to losses caused by market- or industry-wide factors, or Company-specific factors unrelated to the alleged fraud. The Claims Administrator shall determine each Authorized Claimant's share of the Net Settlement Fund based upon the recognized loss formula ("Recognized Loss") described below.

A Recognized Loss will be calculated for each share of Aqua Metals common stock ("Common Stock") and each exchange-traded call option on Aqua Metals Common Stock ("Call Option") purchased or otherwise acquired during the Settlement Class Period, and for each exchange-traded put option on Aqua Metals Common Stock ("Put Option") sold (written) during the Settlement Class Period.<sup>2, 3, 4</sup> The calculation of Recognized Loss will depend upon several factors, including when Aqua Metals Securities were purchased or otherwise acquired during the Settlement Class Period and in what amounts, and whether such securities were sold and, if sold, when and for what amounts. The Recognized Loss is not intended to estimate the amount a Settlement Class Member might have been able to recover after a trial, nor to estimate the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants. The Claims Administrator will use its best efforts to administer and distribute the Net Settlement Fund equitably and to the extent it is economically feasible. The Court will be asked to approve the Claims Administrator's determinations before the Net Settlement Fund is distributed to Authorized Claimants.

The Plan of Allocation was created with the assistance of a damages consultant and is based on the assumption that the price of Aqua Metals Common Stock was artificially inflated throughout the Settlement Class Period. The estimated alleged artificial inflation in the price of Aqua Metals Common Stock during the Settlement Class Period is reflected in Table 1 below. The computation of the estimated alleged artificial inflation in the price of Aqua Metals Common Stock during the Settlement Class Period is based on the fraudulent course of conduct alleged by Lead Plaintiff and the price change in the stock, net of market- and industry-wide factors, in reaction to the public announcements issued on May 9, 2017, August 9, 2017, October 23, 2017 and November 9, 2017 that allegedly corrected the fraud alleged by Lead Plaintiff. The Plan of Allocation takes into account that the relevant news on May 9, 2017, August 9, 2017, and November 9, 2017 was issued after the close of market and the relevant news on October 23, 2017 was issued before the market opened and thus removed artificial inflation from the price of Aqua Metals Common Stock on May 10, 2017, August 10, 2017, October 23, 2017 and November 10, 2017 (the "Corrective Disclosure Dates").

The U.S. federal securities laws allow investors to seek to recover losses caused by disclosures which corrected the Defendants' alleged fraudulent conduct. Thus, in order to have recoverable damages, the corrective disclosure of the allegedly fraud must be the cause of the decline in the price or value of Aqua Metals Common Stock. Accordingly, if Aqua Metals Common Stock was sold before May 10, 2017 (the earliest Corrective Disclosure Date), or both purchased and sold between two consecutive Corrective Disclosure Dates, the

<sup>2</sup> Herein, Aqua Metals Common Stock, Call Options and Put Options are referred to collectively as "Aqua Metals Securities."

<sup>3</sup> Exchange-traded options are traded in units called "contracts." Each call (put) option contract entitles the holder of the call (put) option contract to purchase (sell) 100 shares of the underlying stock upon exercise, in this case Aqua Metals Common Stock.

<sup>4</sup> Throughout the Settlement Class Period, Aqua Metals Common Stock was listed on the NASDAQ Capital Market exchange under the symbol AQMS.

Recognized Loss for such stock is \$0.00, and any loss suffered is not compensable under the federal securities laws. Likewise, with respect to Call Options purchased during the Settlement Class Period and Put Options sold during the Settlement Class Period, such options must have been open and outstanding at the opening of trading in the U.S. financial markets on at least one of the Corrective Disclosure Dates in order to have a Recognized Loss amount greater than \$0.00.

<b>Table 1</b>		
<b>Artificial Inflation in Aqua Metals Common Stock</b>		
<b>From</b>	<b>To</b>	<b>Per-Share Price Inflation</b>
May 19, 2016	May 9, 2017	\$7.68
May 10, 2017	August 9, 2017	\$3.28
August 10, 2017	October 22, 2017	\$1.00
October 23, 2017	November 9, 2017	\$0.07
November 10, 2017	Thereafter	\$0.00

The “90-day lookback” provision of the Private Securities Litigation Reform Act of 1995 (“PSLRA”) is incorporated into the calculation of the Recognized Loss for Aqua Metals Common Stock. The limitations on the calculation of the Recognized Loss imposed by the PSLRA are applied such that losses on Aqua Metals Common Stock purchased during the Settlement Class Period and held as of the close of the 90-day period subsequent to the Settlement Class Period (the “90-Day Lookback Period”) cannot exceed the difference between the purchase price paid for such stock and its average price during the 90-Day Lookback Period. The Recognized Loss on Aqua Metals Common Stock purchased during the Settlement Class Period and sold during the 90-Day Lookback Period cannot exceed the difference between the purchase price paid for such stock and its rolling average price during the portion of the 90-Day Lookback Period elapsed as of the date of sale.

In the calculations below, all purchase and sale prices shall exclude any fees, taxes and commissions. If a Recognized Loss amount is calculated to be a negative number, that Recognized Loss shall be set to zero. Any transactions in Aqua Metals Securities executed outside of regular trading hours for the U.S. financial markets shall be deemed to have occurred during the next regular trading session for the U.S. financial markets.

A Recognized Loss will be calculated as set forth below for each share of Aqua Metals Common Stock and each Call Option purchased or otherwise acquired during the Settlement Class Period and for each Put Option sold (written) during the Settlement Class Period, that is listed in the Claim Form and for which adequate documentation is provided.

Please note that the approval of the Settlement is separate from and not conditioned on the Court’s approval of the Plan of Allocation. You do not need to make any of these calculations yourself. The Claims Administrator will make all of these calculations for you.

## **B. Calculation of Recognized Loss for Aqua Metals Common Stock**

For each share of Aqua Metals Common Stock purchased or otherwise acquired during the Settlement Class Period, *i.e.*, May 19, 2016 through November 9, 2017, inclusive, the Recognized Loss per share shall be calculated as follows:

- I. For each share of Aqua Metals Common Stock purchased during the Settlement Class Period that was subsequently sold prior to May 10, 2017, the Recognized Loss per share is \$0.00.
- II. For each share of Aqua Metals Common Stock purchased during the Settlement Class Period that was subsequently sold during the period May 10, 2017 through November 9, 2017, inclusive, the Recognized Loss per share is *the lesser of*:
  - a. the amount of per-share price inflation on the date of purchase as appears in Table 1 above *minus* the amount of per-share price inflation on the date of sale as appears in Table 1; or
  - b. the purchase price *minus* the sale price.
- III. For each share of Aqua Metals Common Stock purchased during the Settlement Class Period that was subsequently sold during the period November 10, 2017 through February 7, 2018, inclusive (*i.e.*, sold during the 90-Day Lookback Period), the Recognized Loss per share is *the lesser of*:
  - a. the amount of per-share price inflation on the date of purchase as appears in Table 1 above; or
  - b. the purchase price *minus* the sale price; or
  - c. the purchase price *minus* the “90-Day Lookback Value” on the date of sale provided in Table 2 below.
- IV. For each share of Aqua Metals Common Stock purchased during the Settlement Class Period that was still held as of the close of trading on February 7, 2018, the Recognized Loss per share is *the lesser of*:
  - a. the amount of per-share price inflation on the date of purchase as appears in Table 1 above; or
  - b. the purchase price *minus* the average closing price for Aqua Metals Common Stock during the 90-Day Lookback Period, which is \$2.38.

**Table 2**  
**90-Day Lookback Value by Sale/Disposition Date**

Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value	Sale / Disposition Date	90-Day Lookback Value
11/10/2017	\$3.71	12/11/2017	\$3.11	1/10/2018	\$2.61
11/13/2017	\$3.65	12/12/2017	\$3.06	1/11/2018	\$2.59
11/14/2017	\$3.43	12/13/2017	\$3.01	1/12/2018	\$2.58
11/15/2017	\$3.30	12/14/2017	\$2.97	1/16/2018	\$2.56
11/16/2017	\$3.25	12/15/2017	\$2.93	1/17/2018	\$2.55
11/17/2017	\$3.25	12/18/2017	\$2.90	1/18/2018	\$2.54
11/20/2017	\$3.27	12/19/2017	\$2.87	1/19/2018	\$2.53
11/21/2017	\$3.27	12/20/2017	\$2.84	1/22/2018	\$2.52
11/22/2017	\$3.27	12/21/2017	\$2.81	1/23/2018	\$2.51
11/24/2017	\$3.25	12/22/2017	\$2.79	1/24/2018	\$2.50
11/27/2017	\$3.32	12/26/2017	\$2.77	1/25/2018	\$2.48
11/28/2017	\$3.36	12/27/2017	\$2.75	1/26/2018	\$2.47
11/29/2017	\$3.36	12/28/2017	\$2.73	1/29/2018	\$2.46
11/30/2017	\$3.35	12/29/2017	\$2.71	1/30/2018	\$2.45
12/1/2017	\$3.33	1/2/2018	\$2.70	1/31/2018	\$2.44
12/4/2017	\$3.31	1/3/2018	\$2.69	2/1/2018	\$2.43
12/5/2017	\$3.29	1/4/2018	\$2.67	2/2/2018	\$2.42
12/6/2017	\$3.26	1/5/2018	\$2.66	2/5/2018	\$2.41
12/7/2017	\$3.23	1/8/2018	\$2.65	2/6/2018	\$2.40
12/8/2017	\$3.17	1/9/2018	\$2.63	2/7/2018	\$2.38

### C. Calculation of Recognized Loss for Call Options

For each Aqua Metals Call Option purchased or otherwise acquired during the Settlement Class Period, the Recognized Loss per Call Option shall be calculated as follows:

- I. For each Call Option not held at the opening of trading on at least one of the Corrective Disclosure Dates as defined above, the Recognized Loss per Call Option is \$0.00.
- II. For each Call Option held at the opening of trading on one or more of the Corrective Disclosure Dates as defined above,
  - a. that was subsequently sold during the Settlement Class Period, the Recognized Loss per Call Option is the purchase price *minus* the sale price.
  - b. that was subsequently exercised during the Settlement Class Period, the Recognized Loss per Call Option is the purchase price *minus* the intrinsic value of the option on the date of exercise, where the intrinsic value shall be *the greater of*: (i) \$0.00 or (ii) the closing price of Aqua Metals Common Stock on the date of exercise *minus* the strike price of the option.
  - c. that expired unexercised during the Settlement Class Period, the Recognized Loss per Call Option is equal to the purchase price.
  - d. that was still held as of the opening of trading November 10, 2017, the Recognized Loss per Call Option is the purchase price *minus* the intrinsic value of the option as of the close of trading on November 10, 2017, where the intrinsic value shall be *the greater of*: (i) \$0.00 or (ii) \$3.71<sup>5</sup> *minus* the strike price of the option.

No Recognized Loss shall be calculated based upon the purchase or acquisition of any Aqua Metals Call Option that had been previously sold or written.

### D. Calculation of Recognized Loss for Put Options

For each Aqua Metals Put Option sold during the Settlement Class Period, the Recognized Loss per Put Option shall be calculated as follows:

- I. For each Put Option not open (*i.e.*, not outstanding) at the opening of trading on at least one of the Corrective Disclosure Dates as defined above, the Recognized Loss per Put Option is \$0.00.
- II. For each Put Option open at the opening of trading on one or more of the Corrective Disclosure Dates as defined above,

<sup>5</sup> \$3.71 is the closing price of Aqua Metals Common Stock on November 10, 2017.

- a. that was subsequently purchased during the Settlement Class Period, the Recognized Loss per Put Option is the purchase price *minus* the sale price.
- b. that was subsequently exercised (*i.e.*, assigned) during the Settlement Class Period, the Recognized Loss per Put Option is the intrinsic value of the Put Option on the date of exercise *minus* the sale price, where the intrinsic value shall be *the greater of*: (i) \$0.00 or (ii) the strike price of the option *minus* the closing price of Aqua Metals Common Stock on the date of exercise.
- c. that expired unexercised during the Settlement Class Period, the Recognized Loss per Put Option \$0.00.
- d. that was still open as of the opening of trading on November 10, 2017, the Recognized Loss per Put Option is the intrinsic value of the option as of the close of trading on November 10, 2017 *minus* the sale price, where the intrinsic value shall be *the greater of*: (i) \$0.00 or (ii) the strike price of the option *minus* \$3.71.

No Recognized Loss shall be calculated based upon the sale or writing of any Aqua Metals Put Option that had been previously purchased or acquired.

#### **E. General Provisions Applicable to the Plan of Allocation**

The payment you receive will reflect your proportionate share of the Net Settlement Fund. Such payment will depend on the number of eligible securities that participate in the Settlement, and when those securities were purchased and sold. The number of Claimants who send in Claims varies widely from case to case.

A purchase or sale of Aqua Metals Securities shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date.

**Acquisition by Gift, Inheritance or Operation of Law:** If a Settlement Class Member acquired Aqua Metals Securities during the Settlement Class Period by way of gift, inheritance or operation of law, such a claim will be computed by using the date and price of the original purchase and not the date and price of transfer. To the extent that Aqua Metals Common Stock or a Call Option was originally purchased prior to commencement of the Settlement Class Period, the Recognized Loss for that acquisition shall be deemed to be zero (\$0.00). To the extent that a Put Option was originally sold prior to commencement of the Settlement Class Period, the Recognized Loss for that sale shall be deemed to be zero (\$0.00).

If a Settlement Class Member made more than one purchase/acquisition or sale of any Aqua Metals Security during the Settlement Class Period, all purchases/acquisitions and sales shall be matched on a First In, First Out (“FIFO”) basis. With respect to Aqua Metals Common Stock and Call Options, Settlement Class Period sales will be matched first against any holdings as of the close of trading on May 18, 2016 (the last day before the Settlement Class Period begins), and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Settlement Class Period. For Aqua Metals Put Options, Settlement Class Period purchases will be matched first to close out positions open as of the close of trading on May 18, 2016, and then against Aqua Metals Put Options sold (written) during the Settlement Class Period in chronological order.

The date of covering a “short sale” of Aqua Metals Common Stock is deemed to be the date of purchase of Aqua Metals shares. The date of a “short sale” of Aqua Metals Common Stock is deemed to be the date of sale of Aqua Metals shares. In accordance with the Plan of Allocation, however, the Recognized Loss on “short sales” is zero. In the event that a claimant has a short position in Aqua Metals Common Stock, the earliest subsequent Settlement Class Period purchases shall be matched against such short position and not be entitled to a recovery until that short position is fully covered.

With respect to Aqua Metals Common Stock purchased through the exercise of a call or put option,<sup>6</sup> the purchase date of the stock shall be the exercise date of the option and the purchase price shall be the closing price of Aqua Metals Common Stock on the exercise date. Any Recognized Loss arising from purchases of Aqua Metals Common Stock acquired during the Settlement Class Period through the exercise of an option on Aqua Metals Common Stock shall be computed as provided for other purchases of Aqua Metals Common Stock in the Plan of Allocation.

Payment according to the Plan of Allocation will be deemed conclusive against all Authorized Claimants. A Recognized Loss will be calculated as defined herein and cannot be less than zero. The Claims Administrator shall allocate to each Authorized Claimant a *pro rata* share of the Net Settlement Fund based on his, her or its total Recognized Losses as compared to the total Recognized Losses of all Authorized Claimants. No distribution will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00. Cumulative payments of all claims associated with Call Options and Put Options on Aqua Metals Common Stock will be limited to 1.0% of the Net Settlement Fund.<sup>7</sup> Thus, if the cumulative Recognized Loss amounts for Call and Put Option claims exceeds 1.0% of all Recognized Losses, then the Recognized Loss for Call and Put Option claims will be reduced proportionately until they collectively equal 1.0% of all Recognized Losses. In the unlikely event that the Net Settlement Fund, allocated as such, is sufficient to

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<sup>6</sup> Including (i) purchases of Aqua Metals Common Stock as the result of the exercise of a call option on Aqua Metals Common Stock; and (ii) purchases of Aqua Metals Common Stock by the seller of a put option on Aqua Metals Common Stock as a result of the buyer of such put option exercising that put option.

<sup>7</sup> Call and Put Options account for less than 1.0% of the combined dollar trading volume of Aqua Metals Common Stock and Call and Put Options during the Settlement Class Period.

pay 100% of the Aqua Metals Common Stock claims, any excess amount will be used to pay the balance on the remaining Call and Put Option claims.

Settlement Class Members who do not submit an acceptable Claim Form will not share in the Settlement proceeds. The Stipulation and Judgment dismissing this Action will nevertheless bind Settlement Class Members who do not submit a request for exclusion or submit an acceptable Claim Form.

Defendants, their respective counsel, and all other Defendant Releasees will have no responsibility for, interest in, or liability whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Fund (except insofar as Defendants' insurance carrier retains the right to a potential refund of the Settlement Amount and accrued interest thereon pursuant to the terms of ¶12.3(iii) of the Stipulation), the Plan of Allocation, the determination, administration or calculation of Claims, the payment of any Claim, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith. Lead Plaintiff, the Escrow Agent, Plaintiff's Counsel or any Claims Administrator likewise will have no liability for their reasonable efforts to execute, administer and distribute the Settlement.

No Authorized Claimant will have any claim against Lead Plaintiff, Lead Counsel or the Claims Administrator, or any other agent designated by Lead Counsel based on the distributions made substantially in accordance with the Stipulation, the Plan of Allocation or further orders of the Court. In addition, in the interest of achieving substantial justice, Lead Counsel will have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claim Forms filed.

Date: October 20, 2021

THE HONORABLE HAYWOOD S. GILLIAM, JR.  
United States District Court Judge for  
The Northern District of California