

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

**FORM 10-Q**

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

For the quarterly period ended **September 30, 2010**

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 No. **001-31332**

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**LIQUIDMETAL TECHNOLOGIES, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**33-0264467**  
(I.R.S. Employer  
Identification No.)

**30452 Esperanza**  
**Rancho Santa Margarita, CA 92688**  
(Address of principal executive office, zip code)

Registrant's telephone number, including area code: **(949) 635-2100**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

The number of common shares outstanding as of November 4, 2010 was 84,849,172.

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**LIQUIDMETAL TECHNOLOGIES, INC.**  
**FORM 10-Q**  
**FOR THE QUARTER ENDED SEPTEMBER 30, 2010**

**FORWARD-LOOKING INFORMATION**

Statements in this report concerning the future sales, expenses, profitability, financial resources, product mix, market demand, product development and other statements in this report concerning the future results of operations, financial condition and business of Liquidmetal Technologies, Inc. are "forward-looking" statements as defined in the Securities Act of 1933 and the Securities Exchange Act of 1934. Investors are cautioned that the Company's actual results in the future may differ materially from those projected in the forward-looking statements due to risks and uncertainties that exist in the Company's operations and business environment, including competition, the need for increased acceptance of products, our ability to continue to develop and extend our brand identity, our ability to anticipate and adapt to a competitive market, ability to effectively manage rapidly expanding operations, the amount and timing of operating costs and capital expenditures relating to expansion of our business, our operations and infrastructure, our ability to provide superior customer service, our dependence upon key personnel and the like. The Company's most recent filings with the Securities and Exchange Commission, including our Annual Report on Form 10-K for the year ended December 31, 2009, contain additional information concerning many of these risk factors, and copies of these filings are available from the Company upon request and without charge.

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## PART I

## FINANCIAL INFORMATION

## Item 1 – Financial Statements

**LIQUIDMETAL TECHNOLOGIES, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(in thousands, except share data)

	September 30, 2010 <u>(unaudited)</u>	December 31, 2009
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 3,157	\$ 151
Trade accounts receivables, net of allowance for doubtful accounts of \$0 and \$1,314	1,142	1,180
Inventories	948	982
Prepaid expenses and other current assets	731	594
Total current assets	<u>5,978</u>	<u>2,907</u>
Property, plant and equipment, net	5,168	5,668
Other intangibles, net	1,156	1,232
Other assets	390	633
Total assets	<u><u>12,692</u></u>	<u><u>10,440</u></u>
<b>LIABILITIES AND SHAREHOLDERS' DEFICIENCY</b>		
Current liabilities:		
Accounts payable and accrued expenses	6,452	9,111
Deferred revenue	39	31
Short-term debt	415	896
Long-term debt, current portion	-	1,393
Warrant liabilities	26,786	3,975
Conversion feature liabilities	-	444
Other liabilities, current portion	133	141
Total current liabilities	<u>33,825</u>	<u>15,991</u>
Long-term debt, net of current portion	9,850	12,661
Other long-term liabilities, net of current portion	647	155
Total liabilities	<u>44,322</u>	<u>28,807</u>
Shareholders' deficiency:		
Liquidmetal Technologies, Inc. shareholders' deficiency		
Preferred stock, \$0.001 par value; 10,000,000 shares authorized; 2,486,095 and 3,183,663 shares issued and outstanding as of both September 30, 2010 and December 31, 2009	3	4
Common stock, \$0.001 par value; 300,000,000 shares authorized; 84,763,338 and 47,583,102 shares issued and outstanding as of both September 30, 2010 and December 31, 2009	79	48
Additional paid-in capital	147,120	142,135
Accumulated deficit	(180,827)	(162,777)
Accumulated other comprehensive income	1,442	1,441
Total Liquidmetal Technologies, Inc. shareholders' deficiency	<u>(32,183)</u>	<u>(19,149)</u>
Noncontrolling interest	553	782
Total shareholders' deficiency	<u>(31,630)</u>	<u>(18,367)</u>
Total liabilities and shareholders' deficiency	<u><u>\$ 12,692</u></u>	<u><u>\$ 10,440</u></u>

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

**LIQUIDMETAL TECHNOLOGIES, INC. AND SUBSIDIARIES**

**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)**  
(in thousands, except per share data)  
(unaudited)

	<u>For the Three Months Ended</u> <u>September 30,</u>		<u>For the Nine Months Ended</u> <u>September 30,</u>	
	<u>2010</u>	<u>2009</u>	<u>2010</u>	<u>2009</u>
Revenue	\$ 17,309	\$ 4,209	\$ 22,213	\$ 11,320
Cost of sales	<u>1,604</u>	<u>2,909</u>	<u>5,376</u>	<u>6,945</u>
Gross profit	15,705	1,300	16,837	4,375
Operating expenses				
Selling, general, and administrative	2,444	1,341	5,088	4,286
Research and development	331	349	804	897
Total operating expenses	<u>2,775</u>	<u>1,690</u>	<u>5,892</u>	<u>5,183</u>
Income (loss) from operations	12,930	(390)	10,945	(808)
Loss from extinguishment of debt	-	-	-	(1,471)
Change in value of warrants, (loss) gain	(27,199)	2,015	(24,361)	8,138
Change in value of conversion feature, gain	15	474	444	1,434
Other income	18	-	81	-
Interest expense	<u>(2,504)</u>	<u>(1,055)</u>	<u>(5,053)</u>	<u>(4,760)</u>
Net (loss) income before income taxes	(16,740)	1,044	(17,944)	2,533
Income taxes	<u>-</u>	<u>(75)</u>	<u>-</u>	<u>(120)</u>
Net (loss) income	(16,740)	969	(17,944)	2,413
Net loss attributable to noncontrolling interest	<u>114</u>	<u>39</u>	<u>250</u>	<u>59</u>
Net (loss) income attributable to Liquidmetal Technologies, Inc.	(16,626)	1,008	(17,694)	2,472
Other comprehensive (loss) income:				
Foreign exchange translation gain	108	393	1	316
Comprehensive (loss) income	<u>\$ (16,518)</u>	<u>\$ 1,401</u>	<u>\$ (17,693)</u>	<u>\$ 2,788</u>
Per common share basic and diluted:				
Net (loss) income attributable to Liquidmetal Technologies, Inc. - basic	\$ (0.23)	\$ 0.02	\$ (0.31)	\$ 0.05
Net (loss) income attributable to Liquidmetal Technologies, Inc. - diluted	<u>\$ (0.23)</u>	<u>\$ 0.01</u>	<u>\$ (0.31)</u>	<u>\$ 0.01</u>
Number of weighted average shares - basic	<u>72,928</u>	<u>46,595</u>	<u>56,329</u>	<u>45,610</u>
Number of weighted average shares - diluted	<u>72,928</u>	<u>192,404</u>	<u>56,329</u>	<u>191,418</u>

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

**LIQUIDMETAL TECHNOLOGIES, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' DEFICIENCY**  
**For the Nine Months Ended September 30, 2010**  
**(in thousands, except per share data)**  
**(unaudited)**

<b>Liquidmetal Technologies, Inc.</b>									
	<u>Preferred Shares</u>	<u>Common Shares</u>	<u>Preferred Stock</u>	<u>Common Stock</u>	<u>Additional Paid-in Capital</u>	<u>Accumulated Deficit</u>	<u>Accumulated Other Compre- hensive Income (Loss)</u>	<u>Non- controlling Interest</u>	<u>Total</u>
<b>Balance, December 31, 2009</b>	<b>3,183,663</b>	<b>47,583,102</b>	<b>4</b>	<b>48</b>	<b>142,135</b>	<b>(162,777)</b>	<b>1,441</b>	<b>782</b>	<b>(18,367)</b>
Conversion of preferred stocks	(697,568)	17,219,681	(1)	17	(16)	-	-	-	-
Conversion of warrants	-	4,849,775	-	5	2,547	-	-	-	2,552
Restricted shares issued	-	13,870,307	-	8	2,038	-	-	-	2,046
Common stock issued in lieu of cash	-	907,141	-	1	116	-	-	-	117
Conversion of notes payable	-	333,332	-	-	200	-	-	-	200
Dividends	-	-	-	-	-	(356)	-	-	(356)
Minority interest contribution in a subsidiary	-	-	-	-	-	-	-	21	21
Stock-based compensation	-	-	-	-	100	-	-	-	100
Foreign exchange translation gain (loss)	-	-	-	-	-	-	1	-	1
Net ( loss)	-	-	-	-	-	(17,694)	-	(250)	(17,944)
<b>Balance, September 30, 2010</b>	<b><u>2,486,095</u></b>	<b><u>84,763,338</u></b>	<b><u>3</u></b>	<b><u>79</u></b>	<b><u>147,120</u></b>	<b><u>(180,827)</u></b>	<b><u>1,442</u></b>	<b><u>553</u></b>	<b><u>(31,630)</u></b>

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

**LIQUIDMETAL TECHNOLOGIES, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands, except per share data)  
(unaudited)

For the Nine Months Ended  
September 30,

	2010	2009
<b>Operating activities:</b>		
Net (loss) income attributable to Liquidmetal Technologies, Inc.	\$ (17,694)	\$ 2,472
Adjustments to reconcile loss (income) from operations to net cash provided for (used in) operating activities:		
Gain on disposal of asset	51	-
Loss attributable to noncontrolling interest of consolidated subsidiary	(250)	(59)
Depreciation and amortization	868	772
Loss on extinguishment of debt	-	1,471
Amortization of debt discount	3,522	2,633
Stock-based compensation	101	262
Bad debt expense	61	29
Warranty recovery	(176)	(92)
Loss (gain) from change in value of warrants	24,361	(8,138)
Gain from change in value of conversion feature	(444)	(1,434)
Changes in operating assets and liabilities:		
Trade accounts receivable	(22)	(142)
Inventories	35	(292)
Prepaid expenses and other current assets	(137)	(240)
Other assets	(52)	(306)
Accounts payable and accrued expenses	(2,018)	1,213
Deferred revenue	8	11
Other liabilities	485	(14)
Net cash provided by (used in) operating activities	8,699	(1,854)
<b>Investing Activities:</b>		
Purchases of property and equipment	(190)	(412)
Investment in patents and trademarks	(29)	(277)
Net cash used in investing activities	(219)	(689)
<b>Financing Activities:</b>		
Proceeds from borrowings	9,563	13,747
Repayment of borrowings	(17,274)	(26,520)
Proceeds from issuance of convertible preferred stocks	-	15,328
Proceeds from issuance of common stocks	2,046	-
Warrants exercised	1,002	-
Cash distributions	-	(9)
Minority interest in subsidiary's joint venture	21	-
Net cash (used in) provided by financing activities	(4,642)	2,546
Effect of foreign exchange translation	(832)	(39)
Net increase (decrease) in cash and cash equivalents	3,006	(36)
Cash and cash equivalents at beginning of period	151	157
Cash and cash equivalents at end of period	\$ 3,157	\$ 121

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

**LIQUIDMETAL TECHNOLOGIES, INC. AND SUBSIDIARIES**

**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS – (Continued)**

**(in thousands, except per share data)**

**(unaudited)**

During the nine months ended September 30, 2010, \$200 of the Company's 8% Senior Convertible Notes due January 2011 was converted into 333,332 shares of the Company's common stock at a conversion price of \$0.60 per share.



## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2010 and 2009

(in thousands, except share data)

(unaudited)

#### 1. Basis of Presentation / Description of Business

The accompanying condensed balance sheet as of December 31, 2009, which has been derived from audited financial statements, and the unaudited interim condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“generally accepted accounting principles”) for interim financial information and with the instructions to Form 10-Q. Accordingly, they do not include all of the information and notes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting only of normal recurring accruals) considered necessary for a fair presentation have been included. All intercompany balances and transactions have been eliminated. Operating results for the nine months ended September 30, 2010 are not necessarily indicative of the results that may be expected for any future periods or the year ending December 31, 2010. The accompanying unaudited condensed consolidated financial statements should be read in conjunction with the Company’s Form 10-K filed with the Securities and Exchange Commission on August 20, 2010.

Liquidmetal Technologies, Inc. (“Liquidmetal Technologies”) and its subsidiaries (collectively “the Company”) are in the business of developing, manufacturing, and marketing products made from amorphous alloys. Liquidmetal Technologies markets and sells Liquidmetal® alloy industrial coatings and also manufactures, markets and sells products and components from bulk Liquidmetal alloys that can be incorporated into the finished goods of its customers across a variety of industries. The Company also partners with third-party licensees and distributors to develop and commercialize Liquidmetal alloy products.

The Company classifies operations into two reportable segments: Liquidmetal alloy industrial coatings and bulk Liquidmetal alloys (see Note 10). Liquidmetal alloy industrial coatings are used primarily as a protective coating for industrial machinery and equipment, such as drill pipes used by the oil drilling industry and boiler tubes used by coal-burning power plants. Bulk Liquidmetal alloys include potential market opportunities to manufacture and sell products and components for electronic devices, medical devices, defense applications, and sporting goods. In addition, the bulk Liquidmetal alloys segment includes tooling and prototype sampling. Furthermore, such alloys are used to generate research and development services revenue for developing uses related primarily to defense and medical applications as well as potential license fees, royalties, and other compensation from strategic partnering transactions.

In July 2007, the Company transferred substantially all of the assets of its Liquidmetal alloy industrial coatings business to a newly formed, newly capitalized subsidiary named Liquidmetal Coatings, LLC, a Delaware limited liability company (“LMC”), and LMC assumed substantially all of the assets and liabilities of the coatings business. The transfer included the thermal spray coatings assets and liabilities acquired under a purchase agreement with Foster Wheeler Energy Services in June 2007. The Company initially held a 69.25% ownership interest in LMC, however, during 2010, LMC failed to redeem its preferred units by the specified time and was required to issue additional shares to its noteholders. (See Note 9) As a result, the Company’s ownership interest in LMC decreased to 66.56%. The results of operation of LMC are consolidated and comprise our Liquidmetal alloy industrial coatings segment for financial reporting purposes.

In May 2010, LMC entered into a joint venture agreement with IMCO Alloys Private Limited (“IMCO”) to create a subsidiary named Liquidmetal Coatings Solutions India Private Limited (“LMCSI”) and engage in application services of Liquidmetal products as a protective coating. Initially, under the joint venture agreement, LMC held 80% and IMCO held 20% of the outstanding Class A Shares of LMCSI. LMC may, at its option, subscribe to Class B Shares of the Company. In September 2010, LMC provided approximately \$80 in capital equipment and was issued 358,204 Class B Shares of LMCSI. As a result, LMC holds 88.6% and IMCO holds 11.4% ownership interest in LMCSI as of September 30, 2010.

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2010 and 2009

(in thousands, except share data)

(unaudited)

## 2. Basis of Presentation and Recent Accounting Pronouncements

### Translation of Foreign Currency

The Company applies Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 830, *Foreign Currency*, for translating foreign currency into US dollars in our consolidation of the financial statements. Upon consolidation of the Company’s foreign subsidiaries into the Company’s consolidated financial statements, any balances with the subsidiaries denominated in the foreign currency are translated at the exchange rate at period-end. The financial statements of Liquidmetal Technologies Korea have been translated based upon Korean Won as the functional currency. Liquidmetal Technologies Korea’s assets and liabilities were translated using the exchange rate at period end and income and expense items were translated at the average exchange rate for the reporting period. The resulting translation adjustment was included in other comprehensive (loss) income.

### Recent Accounting Pronouncements

In January 2010, the FASB issued new authoritative guidance to require additional disclosures for fair value measurements including the following: (1) amounts transferred in and out of Level 1 and 2 fair value measurements, which is effective for interim and annual reporting periods beginning after December 15, 2009 (“Part I”), and (2) activities in Level 3 fair value measurements including purchases, sales, issuances and settlements, which is effective for interim and annual reporting periods beginning after December 15, 2010 (“Part II”). The Company adopted Part I of the revised guidance for fair value measurements disclosures, which did not have a significant effect on our unaudited Condensed Consolidated Financial Statements as of the beginning of fiscal 2010.

Other recent accounting pronouncements issued by the FASB (including its Emerging Issues Task Force), the AICPA and the SEC did not or are not believed by management to have a material impact on our Company’s present or future consolidated financial statements.

## 3. Liquidity

The Company has experienced losses from continuing operations during the last three fiscal years and has an accumulated deficit of \$180,827 as of September 30, 2010. Cash provided by operations for the nine months ended September 30, 2010 was \$8,699. As of September 30, 2010, the Company’s principal source of liquidity is \$3,157 of cash and \$1,142 of trade accounts receivable.

On May 1, 2009, the Company completed a financing transaction (the “Transaction”) whereby aggregate cash of \$2,500 and principal and accrued interest of \$20,625 due under the previously issued 8% Convertible Subordinated Notes due January 2010 (the “Prior Notes”) were exchanged for 500,000 shares of convertible Series A-1 Preferred Stock with an original issue price of \$5.00 per share, 2,625,002 shares of Series A-2 Preferred Stock with an original issue price of \$5.00 per share, and \$7,500 of new 8% Senior Secured Convertible Subordinated Notes due January 3, 2011 (the “January 2011 Notes”). The Transaction was consummated pursuant to a Securities Purchase and Exchange Agreement, dated May 1, 2009, among the exchanging note holders and investors. On August 5, 2010, the Company repaid in full all principal and interest on the January 2011 Notes. All security interests in Company assets securing such obligations under the January 2011 Notes were released and terminated. (See Note 7)

On May 28, 2010, the Company issued \$2,000 of 13% Subordinated Promissory Note (“January 2011 Subordinated Note”) due on the earlier date of January 3, 2011 or the date on which all outstanding amounts are due under the Company’s 8% January 2011 Notes. On August 5, 2010, the Company repaid in full all principal and accrued interest of \$2,046 on the January 2011 Subordinated Note. In connection with the repayment, on August 10, 2010, the Company entered into a Subscription Agreement pursuant to which the Company issued 7,870,307 shares of the Company’s common stock to the noteholder for an aggregate price of \$2,046. (See Note 7)

On August 5, 2010, the Company entered into a licensing agreement with Apple Inc. (“Apple”) pursuant to which (i) the Company contributed substantially all of its intellectual property assets to a newly organized special-purpose, wholly-owned subsidiary, called Crucible Intellectual Property (“CIP”), (ii) CIP granted to Apple a perpetual, worldwide, fully-paid, exclusive license to commercialize such intellectual property in the field of consumer electronic products in exchange for a license fee, and (iii) CIP granted back to the Company a perpetual, worldwide, fully-paid, exclusive license to commercialize such intellectual property in all other fields of use. Upon closing of the foregoing transaction, the Company was paid a portion of the license fee which was used to pay off noteholders and fund operations. 90 days after the closing date and upon completion of certain support milestones, the Company shall be paid the remaining portion of the license fee.

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS For the Nine Months Ended September 30, 2010 and 2009 (in thousands, except share data) (unaudited)

As of September 30, 2010, the Company has outstanding liens on assets of its South Korean subsidiary by various creditors in South Korea for past-due trade payables totaling \$2,175, which are held by creditors in South Korea, as of September 30, 2010. The Company is currently working to resolve the matter with each creditor by seeking a forbearance or compromise. If it cannot repay the amounts due or obtain forbearance or compromise, the creditors may seek to foreclose on the Company's assets located in Korea.

#### 4. Fair Value of Financial Instruments

The fair value of cash and cash equivalents and trade receivables approximates its carrying value due to its short maturity. The estimated fair value of long-term debt was determined by discounting future cash flows using rates currently available to us for debt with similar terms and remaining maturities.

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Entities are required to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value based upon the following fair value hierarchy:

*Level 1* — Quoted prices in active markets for identical assets or liabilities;

*Level 2* — Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities; and

*Level 3* — Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The following table summarizes the financial liabilities measured at fair value on a recurring basis as of September 30, 2010 and December 31, 2009:

	<u>Level</u>	<u>September, 2010</u>	<u>December 31, 2009</u>
Warrant Liabilities	2	\$ 26,786	\$ 3,975
Conversion Feature Liabilities	2	\$ -	\$ 444

The warrant liabilities and conversion feature liabilities are recorded at fair value based on upon valuation models with utilize relevant factors such as expected life, volatility of the Company's stock prices, risk free interest and dividend rate.

The Company calculated that the estimated fair value of the long term debt is not significantly different than the carrying value of the debt.

#### 5. Inventories

Inventories are accounted for using the moving average basis and at standard cost, which approximate cost on a first-in, first-out basis and are valued at the lower of cost or market. Inventories were comprised of the following:

**LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**For the Nine Months Ended September 30, 2010 and 2009**  
**(in thousands, except share data)**  
**(unaudited)**

	<b>September 30,</b>	<b>December 31,</b>
	<b>2010</b>	<b>2009</b>
	<b>(Unaudited)</b>	<b>(Unaudited)</b>
Raw materials	\$ 632	\$ 675
Work in process	88	94
Finished goods	228	213
Total inventories	\$ 948	\$ 982

**6. Product Warranty**

Management estimates product warranties as a percentage of certain bulk alloy product sales earned during the period. As of September 30, 2010, the Company used 5% of bulk alloy product sales as an estimate of warranties to be claimed. The percentage is based on industry averages and historical information. Additionally, as of September 30, 2010 the Company used 1% of coatings applications sales as estimates of warranties to be claimed.

During the three and nine months ended September 30, 2010, the Company recorded \$28 and \$176 of net gain on warranty, respectively. During the three and nine months ended September 30, 2009, the Company recorded \$0 and \$92 of net gain on warranty, respectively. The warranty accrual balance is included in accounts payable and accrued expenses.

**7. Notes Payable**

Unsecured Subordinated Notes

On May 17, 2006, September 21, 2006, and December 1, 2006, the Company issued 8% Unsecured Subordinated Notes due August 2007 in the aggregate principal amount of \$4,584 (the "August 2007 Subordinated Notes"). The August 2007 Subordinated Notes are unsecured and became due August 2007, of which \$3,575 were retired during 2007 and 2008. During 2009, the Company retired \$750 of the August 2007 Subordinated Notes, and on August 5, 2010, the Company retired the remaining \$259 of the August 2007 Subordinated Notes.

Interest expense for the August 2007 Subordinated Notes were \$2 and \$55 for the three and nine months ended September 30, 2010, respectively. Interest expense for the August 2007 Subordinated notes were \$5 and \$41 for the three and nine months ended September 30, 2009, respectively. As of September 30, 2010 and December 31, 2009, the Company's gross outstanding loan balance of the August 2007 Subordinated Notes totaled \$0 and \$259, respectively, and was included in current portion of long-term debt.

On May 28, 2010, the Company issued \$2,000 of 13% Subordinated Promissory Note ("the January 2011 Subordinated Note") due on the earlier date of January 3, 2011 or the date on which all outstanding amounts are due under the Company's 8% January 2011 Notes. On August 5, 2010, the Company repaid in full all principal and accrued interest of \$2,046 on the January 2011 Subordinated Note. In connection with the repayment, on August 10, 2010, the Company entered into a Subscription Agreement pursuant to which the Company issued 7,870,307 shares of the Company's common stock for an aggregate price of \$2,046.

Secured Convertible Subordinated Notes

During 2007, 2008, and 2009, the Company issued 8% Convertible Subordinated Notes due January 2010 in the aggregate principal amount of \$17,300 (The "January 2010 Notes") and an additional aggregate amount of \$3,009 for accrued interest. On May 1, 2009, the January 2010 Notes were retired as part of a financing transaction (see "Senior Secured Convertible Notes" below).

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS For the Nine Months Ended September 30, 2010 and 2009 (in thousands, except share data) (unaudited)

The Company's gross outstanding loan balance of the January 2010 Notes totaled \$0 as of both September 30, 2010 and December 31, 2009. As of both September 30, 2010 and December 31, 2009, un-amortized discounts for conversion feature, warrants, and cash discount totaled \$0, and other asset debt issuance costs totaled \$0. Interest expense for the amortization of debt issuance cost and discount on note was \$0 for both the three and nine months ended September 30, 2010. Interest expense for the amortization of debt issuance cost and discount on note was \$0 and \$1,816 for the three and nine months ended September 30, 2009, respectively.

Pursuant to FASB ASC 815, *Derivatives and Hedging*, the Company is required to report a value of the conversion liability as a fair value and record the fluctuation to the fair value of the conversion feature liability to current operations. The change in the fair value of the conversion feature liability resulted in gains of \$0 for both the three and nine months ended September 30, 2010, respectively. The change in the fair value of the conversion feature liability resulted in losses of \$0 and \$1,137 for three and nine months ended September 30, 2009, respectively.

#### Senior Secured Convertible Notes

On May 1, 2009, the Company completed a financing transaction (the "Transaction") whereby aggregate cash of \$2,500 and principal and accrued interest of \$20,625 due under the previously issued 8% Convertible Subordinated Notes due January 2010 (the "January 2010 Notes") were exchanged for 500,000 shares of convertible Series A-1 Preferred Stock with an original issue price of \$5.00 per share, 2,625,002 shares Series A-2 Preferred Stock with an original issue price of \$5.00 per share, and \$7,500 of new 8% Senior Secured Convertible Notes due January 2011 (the "January 2011 Notes"). The Transaction was consummated pursuant to a Securities Purchase and Exchange Agreement, dated May 1, 2009 (the "Securities Purchase Agreement"), among the exchanging note holders and investors (collectively, the "Buyers").

The redemption of the previously issued January 2010 Notes was treated as an extinguishment of debt in accordance with Emerging Issues Task Force No. 96-19, "Debtors Accounting for a Modification or Exchange of Debt Instruments." The Transaction resulted in a \$2,029 loss from extinguishment of debt, which consisted of write down of \$503 other asset deferred issue costs, \$5,487 debt discount, \$1,306 decrease in conversion feature liability of the extinguished notes, \$2,347 decrease in warrant liability from the warrants redeemed from holders of the January 2011 Notes, and \$308 write off of accrued fees.

The January 2011 Notes were due January 3, 2011 and bear annual interest rate of 8% with interest payable in October and April in cash or, at the Company's option, in the form of additional notes (in which case the interest rate will be 10%). In November 1, 2009 and May 1, 2010, the Company issued \$378 and \$391, respectively, of additional January 2011 Notes for accrued interest due under the notes in lieu of cash payments. On August 5, 2010, the Company repaid in full all principal and interest on the January 2011 Notes in the amount of \$8,242, and all security interest in the company assets securing such obligations under the January 2011 Notes were released and terminated.

The Series A-1 Preferred Stock, Series A-2 Preferred Stock, and January 2011 Notes are convertible into the Company's common stock at conversion price of \$0.10, \$0.22, and \$0.60 per common share, respectively. During the three and nine months ended September 30, 2010 59,000 and 638,568 of the Company's Series A-2 Preferred Stocks, respectively, were converted into 333,333 and 14,512,909 of the Company's common stocks, respectively. The Company issued warrants to purchase 3,125,007 shares and 42,329,407 shares of the Company's common stock at an exercise of \$0.60 and \$0.50 per share to the buyers of the January 2011 Notes and preferred stocks, respectively. During both the three and nine months ended September 30, 2010, 4,849,775 of warrants were exercised into the Company's common stocks. Unexercised warrants will expire on January 3, 2012. The conversion prices and the number of common stock issuable under the preferred stocks, January 2011 Notes and warrants are subject to adjustments for anti-dilution purposes. (See Note 14)

The preferred stocks accrue cumulative dividends at an annual rate of 8%, which is payable semi-annually. Beginning on the second anniversary of the initial issuance, the dividend will increase to 10%. In conjunction with the Series A-1 Preferred Stock conversion during the three months ended September 30, 2010, the Company granted in-kind dividends to the preferred stocks holders, which were simultaneously converted into 1,365,863 of common stocks. As of September 30, 2010, the Company has accrued dividends of \$1,063 included in accounts payable and other accrued expenses. The dividends are payable in cash or in kind by the issuance of the Company of additional preferred stock, only when and as declared by the Company's Board of Directors.

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS For the Nine Months Ended September 30, 2010 and 2009 (in thousands, except share data) (unaudited)

Pursuant to Statement of Financial Accounting Standards No. 133, "Accounting for Derivative Instruments and Hedging Activities," EITF 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock," EITF 00-27, "Application of Issue No. 98-5 to Certain Convertible Instruments," and EITF 05-2 "The Meaning of 'Conventional Convertible Debt Instrument' in EITF Issue No. 00-19," the original fair value of the embedded conversion feature of \$3,367 have been recorded as conversion feature liability as the debt is considered nonconventional convertible debt. The original fair value was computed using the Black-Scholes model under the following assumptions: (1) expected life of 1.68 years; (2) volatility of 176%; (3) risk free interest of 0.92% and dividend rate of 0%. In addition, the Company is required to report a value of the conversion liability as a fair value and record the fluctuation to the fair value of the conversion feature liability to current operations.

The change in the fair value of the conversion feature liability resulted in gains of \$15 and \$444 for the three and nine months ended September 30, 2010, respectively. The change in the fair value of the conversion feature liability resulted in gains of \$474 and \$2,572 for the three and nine months ended September 30, 2009, respectively. The fair value of conversion feature outstanding at September 30, 2010 and December 31, 2009 was \$0 and \$444, respectively. The fair value of conversion feature outstanding at December 31, 2009 was computed using the Black-Scholes model under the following assumptions: (1) expected life of 1.01 years; (2) volatility of 152%, (3) risk free interest of 0.5% and dividend rate of 0%.

Pursuant to EITF 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock", the original fair values of the warrants of \$14,773 have been recorded as warrant liability, which was computed using the Black-Scholes pricing model under the following assumptions: (1) expected life of 2.67 years; (2) volatility of 176%; (3) risk free interest of 1.39% and (4) dividend rate of 0%.

The original fair value of the embedded conversion feature of \$3,367 was recorded as discounts on the convertible notes and the original fair value of the warrants issued to buyers of the January 2011 Notes of \$999 was recorded as discounts of the convertible notes. The original fair value of warrants issued to buyers of preferred stocks of \$13,774 was recorded as reduction of additional paid-in capital. In addition, the Company incurred \$440 of direct costs relating to the Transaction, of which \$143 of was recorded as debt issuance cost in other assets relating to issuance of the convertible notes and \$297 was recorded as reduction of additional paid-in capital relating to the issuance of the preferred stocks.

The Company's gross outstanding loan balance of the January 2011 Notes totaled \$0 and \$7,878 as of September 30, 2010 and December 31, 2009, respectively. As of September 30, 2010 and December 31, 2009, un-amortized discounts for conversion feature and warrants totaled \$0 and \$3,227, respectively, and other asset debt issuance costs totaled \$0 and \$104, respectively. Interest expense for the amortization of debt issuance cost and discount on note was \$1,960 and \$2,994 for the three and nine months ended September 30, 2010, respectively. Interest expense for the amortization of debt issuance cost and discount on note was \$441 and \$696 for the three and nine months ended September 30, 2009, respectively.

#### Factoring Agreement

The Company entered into a Factoring, Loan, and Security Agreement (the "Agreement") with a financing company on April 21, 2005. All borrowings were secured by outstanding receivables specifically assigned to the financing company. In June 2009, the Company received a formal notice of default from the financing company for repayment of the outstanding loan. On August 5, 2010, the Company terminated the Agreement and repaid in full all principal and interest on the Agreement in the amount of \$309. All security interest in Company assets securing such obligations under the factoring loan were released and terminated.

For the nine months ended September 30, 2010, the Company borrowed \$3 and repaid \$287 under the Agreement. The total outstanding advance made under the agreement is \$0 and \$284 as of September 30, 2010 and December 31, 2009, respectively, which is presented as short-term debt.

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS For the Nine Months Ended September 30, 2010 and 2009 (in thousands, except share data) (unaudited)

#### Debt of Majority Owned Subsidiary

On July 24, 2007, the Company completed an \$11,500 financing transaction (the "Transaction") that provided funding to repay convertible notes previously issued by the Company that were scheduled to become due in July and August 2007. In the Transaction, the Company transferred substantially all of the assets of the Company's Liquidmetal Coatings division to a newly formed, newly capitalized subsidiary named Liquidmetal Coatings, LLC, a Delaware limited liability company ("LMC"), and LMC assumed substantially all of the liabilities of the division.

LMC was capitalized through a \$6,500 subordinated debt and equity investment by C3 Capital Partners ("C3") and a \$5,000 senior credit facility with Bank Midwest, N.A. This debt and equity resulted in cash proceeds of \$11,102 after related debt issuance costs of \$398, which proceeds LMC used to purchase all of the assets and liabilities from the Company. The Company incurred an additional \$459 in issuance costs directly related to the debt issuance. As a result, \$857 was recorded as deferred debt issuance costs to be amortized over the life of the debt. Interest expense for the amortization of debt issuance cost was \$100 and \$190 for the three and nine months ended September 30, 2010, respectively. Interest expense for the amortization of debt issuance cost was \$42 and \$121 for the three and nine months ended September 30, 2009, respectively.

The Company retains a 66.56% ownership interest in LMC, C3 holds a 22.15% ownership interest, Larry Buffington, the Company's former President and CEO, (who also serves as the President and CEO of LMC) holds a 9.61% ownership interest, and CRESO Capital Partners ("CRESO"), the Company's financial advisor in the Transaction, holds a 1.68% ownership interest. The equity interests acquired by C3 and issued to CRESO were not considered a discount to debt, as the unconsolidated net assets of LMC were deemed to have an initial value of \$0 upon closing of the Transaction for financial accounting purposes. Further, LMC is fully responsible for the repayment of debt obligations.

#### *Midwest Debt*

In connection with the Transaction, LMC entered into a Loan Agreement (the "Loan Agreement"), dated July 24, 2007, with Bank Midwest, N.A. ("Midwest"). Following the Transaction, the Loan Agreement has been amended to renew and modify certain terms. The Loan Agreement, as amended on October 6, 2009 (the "Loan Amendment"), provided for total loan availability of \$5,025, consisting of a \$4,000 term loan and a revolving loan of up to \$1,025 based on a percentage of LMC's eligible receivable and inventory. The Loan Amendment adjusted, among other terms, the interest rate of all outstanding loans to a fixed rate of 9%, certain financial covenants under the Loan Agreement, maturity date of the revolving loan through June 30, 2010 with monthly interest payments, and required an immediate repayment of \$325 of the term loan and \$325 of the revolving loan. The members of the Liquidmetal Coatings, LLC (the "Members") were required to contribute \$650 in equity to repay the amounts due under the Loan Agreement (the "Capital Call"). On October 6, 2009, the Company paid \$450 which represented its portion of the Capital Call and the remaining Members paid \$200. As a result of the payment, the monthly amortization payments due under the term loan were reduced to \$47 and the maturity date was extended to September 30, 2012. In connection with the Loan Amendment, the Company borrowed \$450 from C3 Capital Partners ("C3") to contribute its share of the Capital Call pursuant to a bridge loan agreement with C3 and subsequently paid down the bridge loan in November 2009.

Additionally, LMC entered into Promissory Notes, dated August 29, 2007 and October 21, 2008 (the "Capital Loan"), with Midwest to provide for \$45 and \$105 to be used towards the purchase of a company truck and HVOF spray equipment with annual interest rates of 7.43% and 8.25%, respectively. The Capital Loan had maturity dates of September 1, 2012 and November 1, 2013.

On June 25, 2010 LMC entered into a Credit Agreement with Enterprise Bank & Trust and retired all of its loan agreements with Midwest (see "*Enterprise Debt*" below).

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2010 and 2009

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As of September 30, 2010 and December 31, 2009, the gross outstanding loan balance under the Midwest term loan totaled \$0 and \$1,430, respectively, and the gross outstanding loan balance under the Midwest revolving loan totaled \$0 and \$307, respectively. The loans are presented as long-term debt and short-term debt on the Company's consolidated balance sheet, respectively. Interest expense incurred under the term loan and revolving loan totaled \$0 and \$66 for the three and nine months ended September 30, 2010, respectively. Interest expense incurred under the term loan and revolving loan totaled \$54 and \$177 for the three and nine months ended September 30, 2009, respectively. As of September 30, 2010 and December 31, 2009, the gross outstanding loan balance under the Capital Loan totaled \$0 and \$102, respectively, which is presented as long-term debt on the Company's consolidated balance sheet. Interest expense incurred under the Capital Loan totaled \$0 and \$4 for the three and nine months ended September 30, 2010, respectively. Interest expense incurred under the Capital Loan totaled \$2 and \$7 for the three and nine months ended September 30, 2009, respectively.

#### *Enterprise Debt*

On June 25, 2010, LMC entered into a Credit Agreement ("Credit Agreement") with Enterprise Bank & Trust ("Enterprise"). The Credit Agreement provides for a total loan availability of \$3,700, consisting of \$1,500 term loan ("Term Note"), a revolving loan of up to \$2,000 ("Revolving Note"), and equipment loans ("Equipment Note") of up to \$200. The Term Note of \$1,500 has a maturity date of June 25, 2013 and bears an interest rate of 7% per annum. LMC is required to make monthly payments of principal and interest under the Term Note, with monthly payments of (i) \$50 during months 1 through 12, (ii) \$42 during months 13 through 24 and (iii) \$33 during months 25 through 36. All remaining principal and interest shall be due and payable upon the maturity date

Borrowing availability under the Revolving Note is based on a percentage of LMC's eligible receivables and inventory and accrues interest at the rate of the greater of *libor* plus 3.75% or 6%. LMC will make monthly interest payments on the Revolving Note until June 24, 2011, at which point all remaining principal and interests are due. LMC has the right to prepay the Term Note and the Revolving Note and the Equipment Note, in whole or in part, at any time without penalty or premium.

The Credit Agreement is secured by a blanket security interest in all of the LMC's assets. Pursuant to a subordination agreement between C3 Capital Partners, L.P., C3 Capital Partners II, L.P. (collectively the "C3 Entities") and Enterprise, Enterprise's security interest in the assets is senior to the C3 Entities' security interest in the same assets.

As of September 30, 2010 and December 31, 2009, the gross outstanding loan balance under the Enterprise Term Note totaled \$1,400 and \$0, respectively, and the gross outstanding loan balance under the Enterprise Revolving Note totaled \$415 and \$0, respectively. The Term Note and the Revolving Note are presented as long-term debt and short-term debt on the Company's consolidated balance sheet, respectively.

#### *C3 Debt*

In the Transaction, LMC also entered into a Securities Purchase Agreement, dated July 24, 2007 (the "Securities Purchase Agreement"), with C3 Capital Partners, L.P. ("C3"), C3 Capital Partners II, L.P. ("C3 II", and with C3, the "C3 entities"), and Liquidmetal Coatings Solutions, LLC, a wholly owned subsidiary of LMC that will operate the thermal spray coatings business ("LMCS"). Pursuant to the Securities Purchase Agreement, LMC issued to the C3 entities subordinated promissory notes in the aggregate principal amount of \$6,500 (the "Subordinated Notes"). Under the Securities Purchase Agreement, the C3 entities have the right, beginning on the July 24, 2012 (or, if earlier, upon a default by LMC under the Subordinated Notes or Securities Purchase Agreement) to require LMC to purchase the C3 entities' membership interests in LMC for a purchase price equal to their pro rata portion of the greater of (i) the appraised fair market value of LMC or (ii) six times LMC's trailing 12-month earnings before interest, taxes, depreciation, and amortization, less funded debt.

The Subordinated Notes have a maturity date of July 20, 2012 with no required principal payments before maturity other than upon specified triggering events, such as a change in control of LMC. Interest accrues at an annual rate of 14%, with 12% interest being payable monthly beginning September 2007 and the remaining 2% interest being payable at maturity. In connection with the Securities Purchase Agreement and the Subordinated Notes, the Company and LMC entered into pledge agreements with the C3 entities in which the Company pledged its membership interest in LMC to secure the obligations under the notes and LMC pledged its membership interests in LMCS to secure its obligations under the notes. LMC and LMCS also granted to C3 a blanket security interest in all of their assets to secure their obligations under the Subordinated Notes.



## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS For the Nine Months Ended September 30, 2010 and 2009 (in thousands, except share data) (unaudited)

The gross outstanding loan balance including accrued interest payable upon maturity of the Subordinated Note totaled \$8,450 and \$7,613 as of September 30, 2010 and December 31, 2009, respectively. Interest expense incurred under the Subordinated Notes totaled \$248 and \$718 for the three and nine months ended September 30, 2010, respectively. Interest expense incurred under the Subordinated Notes totaled \$203 and \$606 for the three and nine months ended September 30, 2009, respectively.

#### 8. Stock Compensation Plan

During the nine months ended September 30, 2010, there were no options granted under the Company's 2002 Non-employee Director Stock Option Plan which provides for the grant of stock options to non-employee directors. Further, all options granted under this plan had exercise prices that were equal to the fair market value on the date of grant.

During the nine months ended September 30, 2010, under the Company's 2002 Equity Incentive Plan which provides for the grant of stock options to officers, employees, consultants and directors of the Company its subsidiaries, the Company granted options to purchase 3,080,000 of the Company's common stock for an average price of \$0.12. Further, all options granted under this plan had exercise prices that were equal to the fair market value on the date of grant.

The Company cancelled 81,130 options during the nine months ended September 30, 2010, for terminated employees and options expired.

On August 3, 2010 (the "Grant Date"), the Company granted 6,000,000 shares of restricted Common Stock to Thomas Steipp, the Company's President and Chief Executive Officer in conjunction with his employment agreement. The restricted shares will vest ratably over a period of five years starting with the first anniversary of the Grant Date, provided that Mr. Steipp is continuously employed by the Company from the Grant Date through the applicable vesting date.

#### 9. Preferred Units of Subsidiary

On February 22, 2008, LMC completed a transaction under which it issued and sold \$2,500 in preferred membership units to two minority members of LMC (the "Preferred Units Transaction"). Immediately following the sale of the preferred membership units, the subscription proceeds (after a 1% transaction fee) were distributed to LMC's common unit members, and as a result of such distribution, the Company received approximately \$1,714 in the distribution. The preferred units issued by LMC have an accruing priority return of 14% per year that are priority over any distribution made by LMC and may be redeemed at any time within four years of issuance through cash payment or distribution in excess of the 14% priority return. LMC is required to redeem the preferred units on or before the second anniversary of the issue date and failure to redeem the preferred units at the specified time will result in the preferred unit holders receiving an additional 2% of common membership units (equal to 1,425 of the currently outstanding common units) per quarter until the preferred units are redeemed in full. As of September 30, 2010, an additional 2,767 membership units have been issued to the preferred unit holders.

As of September 30, 2010, LMC has redeemed \$236 of its preferred units and distributed \$294 in priority return to the preferred unit holders. The total preferred units outstanding are \$2,264 as of September 30, 2010.

#### 10. Segment Reporting and Geographic Information

ASC 280, *Segment Reporting*, requires companies to provide certain information about their operating segments. In April 2002, the Company began classifying operations into two reportable segments: Liquidmetal alloy industrial coatings and bulk Liquidmetal alloys. The Liquidmetal alloy industrial coatings are used primarily as a protective coating for industrial machinery and equipment, such as drill pipe used by the oil drilling industry and boiler tubes used by coal burning power plants. Bulk Liquidmetal alloys include market opportunities to manufacture and sell casing components for electronic devices, medical devices, sporting goods, tooling, prototype sampling, defense applications and metal processing equipment. Primarily, the expenses incurred by the bulk Liquidmetal alloy segment are research and development costs and selling expenses associated with identifying and developing market opportunities. Bulk Liquidmetal alloys products can be distinguished from Liquidmetal alloy coatings in that the bulk Liquidmetal alloy can have significant thickness, up to approximately one inch, which allows for their use in a wider variety of applications other than a thin protective coating applied to machinery and equipment. Revenue and expenses associated with research and development services and product licensing arrangements are included in the bulk Liquidmetal alloy segment. The accounting policies of the reportable segments are the same as those described in Note 3 to the consolidated financial statements included in the Company's Form 10-K filed with the Securities and Exchange Commission on August 20, 2010.

**LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
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**(in thousands, except share data)**  
**(unaudited)**

Summarized financial information concerning the Company's reportable segments is shown in the following tables:

	<u>Coatings</u>	<u>Bulk Alloy</u>	<u>Segment Totals</u>
<b>Three months ended September 30, 2010</b>			
Revenue to external customers	\$ 1,839	\$ 15,470	\$ 17,309
Gross profit	671	15,034	15,705
Total segment (loss) income	(311)	14,652	14,341
Total identifiable assets at end of period	2,406	6,718	9,124
<b>Three months ended September 30, 2009</b>			
Revenue to external customers	\$ 2,041	\$ 2,168	\$ 4,209
Gross profit	693	607	1,300
Total segment (loss) income	(124)	156	32
Total identifiable assets at end of period	2,534	9,137	11,671
<b>Nine months ended September 30, 2010</b>			
Revenue to external customers	\$ 6,383	\$ 15,830	\$ 22,213
Gross profit	2,224	14,613	16,837
Total segment (loss) income	(754)	13,881	13,127
Total identifiable assets at end of period	2,406	6,718	9,124
<b>Nine months ended September 30, 2009</b>			
Revenue to external customers	\$ 6,234	\$ 5,086	\$ 11,320
Gross profit	2,198	2,177	4,375
Total segment (loss) income	(271)	1,013	742
Total identifiable assets at end of period	2,534	9,137	11,671

Reconciling information between reportable segments and the Company's consolidated totals is shown in the following table:

**LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

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**(unaudited)**

	<b>For the Three Months Ended September 30,</b>		<b>For the Nine Months Ended September 30,</b>	
	<b>2010</b>	<b>2009</b>	<b>2010</b>	<b>2009</b>
Total segment income	\$ 14,341	\$ 32	\$ 13,127	\$ 742
General and administrative expenses, excluded	(1,755)	(738)	(3,132)	(2,503)
Consolidated income (loss) before interest, income taxes, and noncontrolling interests	\$ 12,586	\$ (706)	\$ 9,995	\$ (1,761)
Loss from extinguishment of debt	-	-	-	(1,471)
Change in value of warrants, (loss) gain	(27,199)	2,015	(24,361)	8,138
Change in value of conversion feature, gain	15	474	444	1,434
Interest expense	(2,142)	(739)	(4,022)	(3,807)
Income taxes	-	(75)	-	(120)
Income attributable to noncontrolling interest	114	39	250	59
Consolidated net loss attributable to Liquidmetal Technologies, Inc.	<u>\$ (16,626)</u>	<u>\$ 1,008</u>	<u>\$ (17,694)</u>	<u>\$ 2,472</u>

Excluded general and administrative expenses are attributable to the Company's corporate headquarters. These expenses primarily include corporate salaries, consulting, professional fees and facility costs. Research and development expenses are included in the operating costs of the segment that performed the research and development.

Revenues from sales to companies in the United States were \$16,987 and \$1,983 during the three months ended September 30, 2010 and 2009, respectively. The revenue related to the United States of America was earned under defense-related research and development contracts, sales of coatings products, sales of Liquidmetal bulk alloy products and royalties.

During the three months ended September 30, 2010, the Company had revenue from sales to companies outside of the United States of \$322. The revenue related to sales to companies outside of the United States was mostly from coating materials. During the three months ended September 30, 2009, the Company had revenues from companies outside of the United States of \$2,226 of which \$1,404 represented sales to companies located in South Korea. The revenue related to sales to companies outside of the United States was mostly from bulk alloy products.

Long-lived assets include net property, plant, and equipment, and net intangible assets. The Company had long-lived assets of \$1,892 and \$1,968 located in the United States at September 30, 2010 and December 31, 2009, respectively. The Company had long-lived assets of \$4,432 and \$4,932 located in South Korea at September 30, 2010 and December 31, 2009, respectively.

Reconciling information between reportable segments and the Company's consolidated totals is shown in the following table:

	<b>September 30, 2010</b>
Total segment assets	\$ 9,124
Cash and cash equivalents	3,028
Prepaid expenses and other current assets	292
Other property, plant and equipment	44
Intangibles, net	-
Other assets	204
Total consolidated assets	<u>\$ 12,692</u>

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

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Assets excluded from segment assets include assets attributable to the Company's corporate headquarters. The Company's largest corporate assets consist of intangible assets, which consist primarily of the Company's patents and trademarks.

#### 11. Income (Loss) Per Common Share

Basic earnings per share ("EPS") is computed by dividing earnings (loss) attributable to common shareholders by the weighted average number of common shares outstanding for the periods. Diluted EPS reflects the potential dilution of securities that could share in the earnings.

Options to purchase 8,134,126 shares of common stock at prices ranging from \$0.09 to \$15.00 per share were outstanding at September 30, 2010, but were not included in the computation of diluted EPS for the same period as the inclusion would have been antidilutive. Warrants to purchase 47,232,459 shares of common stock with prices ranging from \$0.48 to \$1.75 per share outstanding at September 30, 2010, were not included in the computation of diluted EPS for the same period as the inclusion would have been antidilutive. 75,047,614 shares of common stock issuable upon conversion of the Company's convertible preferred stocks with conversion prices ranging from \$0.10 and \$0.22 per share outstanding at September 30, 2010 were not included in the computation of diluted EPS for the same period because the inclusion would have been antidilutive. Additionally, 12,905,318 shares of common stocks issuable upon conversion of the Company's convertible preferred stock dividends with conversion prices ranging from \$0.10 and \$0.22 per share outstanding at September 30, 2010 were not included in the computation of diluted EPS for the same period because the inclusion would have been antidilutive.

Pursuant to EITF 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock", the Company is required to report a value of the warrant as a fair value and record the fluctuation to the fair value of the warrant liability to current operations. The change in the fair value of the warrants resulted in losses of \$27,199 and \$24,361 for the three and nine months ended September 30, 2010, respectively, and gains of \$2,015 and \$8,138 for the three and nine months ended September 30, 2009, respectively. The fair value of warrants outstanding at September 30, 2010 of \$26,786 was computed using the Black-Scholes model under the following assumptions: (1) expected life of 0.63 to 4.08 years; (2) volatility of 149%, (3) risk free interest of 0.27% to 1.27%, and dividend rate of 0%. The fair value of warrants outstanding at December 31, 2009 of \$3,975 was computed using the Black-Scholes model under the following assumptions: (1) expected life of 0.45 to 4.83 years; (2) volatility of 152%, (3) risk free interest of 0.20% to 2.69%, and dividend rate of 0%.

#### 12. Commitments and Contingencies

The Company is from time to time a party to certain legal proceedings arising in the ordinary course of business. Although outcomes cannot be predicted with certainty, the Company does not believe that any legal proceeding to which it is a party will have a material adverse effect on the Company's financial position, results of operations, and cash flows.

On June 26, 2006, the Company entered into a joint venture agreement with SAGA, SpA in Padova, Italy, ("SAGA") a specialist precision parts manufacturer. The joint venture is named Liquidmetal SAGA Italy, Srl ("LSI"). The Company also entered into an exclusive manufacturing license agreement for the eyewear industry with LSI. Under the joint venture agreement, the Company has the option to buy ownership interest in LSI, initially, of 19.9% to up to 50%. In December 2006, the Company exercised the 19.9% interest in LSI and in January 2007 and June 2007, the Company contributed additional \$217 and \$86, respectively, into LSI as additional investment. The contribution did not change the Company's 19.9% interest in LSI. Under the licensing agreement, at any time following 18 months after the effective date of the agreement, LSI may exercise its option to sell to the Company certain business assets including manufacturing equipment acquired under the joint venture. During the fourth quarter of the year ended December 31, 2009, the Company wrote-off its investment of \$306 in the joint venture due to lower than anticipated growth in the eye wear industry. On August 6, 2010, SAGA filed a complaint against the Company claiming damages of \$3,200 for payment on an alleged loan and for alleged breach of contract in connection with the formation of LSI. The Company is in the process of responding to the claim and working with SAGA to resolve the matter.

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS For the Nine Months Ended September 30, 2010 and 2009 (in thousands, except share data) (unaudited)

The Company has outstanding liens on assets by our South Korean subsidiary by various creditors for past-due trade payables totaling \$2,175, which are held by creditors in South Korea, as of September 30, 2010. The Company is currently working to resolve the matter with each creditor by seeking a forbearance or compromise. If the Company cannot repay the amounts due or obtain forbearance or compromise, the creditors may seek to foreclose on the Company's assets located in Korea.

#### 13. Related Party Transactions

During 2009, John Kang, former Chairman of the Company, advanced the Company \$250 to fund working capital needs. On August 5, 2010, the Company paid off Mr. Kang \$63 which represented the amount outstanding as well as 10% accrued interest as of that date.

On August 1, 2010, the Company entered into an agreement with John Kang, former Chairman of the Company, to provide consulting services to the Company through December 31, 2011 and on a month-to-month basis thereafter. During both the three and nine months ended September 30, 2010, the Company paid \$42 for his services.

As of September 30, 2010 and December 31, 2009, Ricardo Salas, the Company's Director and Executive Vice President, held \$0 and \$259 of the unsecured subordinated notes, respectively. Mr. Salas advanced the Company \$210 and \$175 during 2010 and 2009, respectively, to fund the Company's working capital needs. On August 5, 2010, the Company paid off Mr. Salas \$408 which represented the amount outstanding as well as 10% accrued interest as of that date.

In October 2009, Mr. Kang, Mr. Salas and Tony Chung, the Company's Chief Financial Officer, acquired 80,000 shares of the Company's Series A-1 Preferred Stock and 2,000,000 warrants for an aggregate cash price of \$400. The Series A-1 Preferred Stock are convertible into the Company's common stock at a conversion price of \$0.10 per common share. Further, the warrants are issuable into the Company's common stock at an exercise price of \$0.50 per share and expire on January 3, 2012.

In May 2009, the Company completed a transaction in which (i) the holders of our 8% Convertible Subordinated Notes exchanged such notes for a combination of new January 2011 Notes and shares of a new series of convertible preferred stock designated "Series A-2 Preferred Stock", together with warrants thereon, and (ii) certain investors purchased, for an aggregate purchase price of \$2,500, shares of a new series of convertible preferred stock designated as "Series A-1 Preferred Stock" (see Note 7). The lead investors in this transaction were Carlyle Liquid, LLC and Carlyle Liquid Holdings, LLC (the "Carlyle Entities"), which are two investor entities organized by Abdi Mahamedi and Jack Chitayat, former director of the Company. Mr. Mahamedi became a director and greater-than-5% beneficial owner of the company by reason of the May 2009 transaction, and Mr. Chitayat also became a greater-than-5% beneficial owner of our company by reason of the May 2009 transaction. Mr. Mahamedi and Mr. Chitayat have shared voting and investment control over the shares held by the Carlyle Entities due to the fact that other entities owned by them are the managing members of these two Carlyle entities. Additionally, Mr. Iraj Azarm and Mr. Robert Biehl, directors of the Company, are passive investors in the Carlyle Entities.

During the nine months ended September 30, 2010, Mr. Mahamedi and Carlyle Liquid Holdings, LLC advanced the Company \$30 and \$75, respectively, to fund the Company's working capital needs. On August 5, 2010, the Company paid off \$31 and \$78 to Mr. Mahamedi and Carlyle Liquid Holdings, LLC, respectively, representing the amounts outstanding and 10% accrued interest as of that date.

The Company has an exclusive license agreement with LLPG, Inc. ("LLPG"), a corporation headed by Mr. Chitayat. Under the terms of the agreement, LLPG has the right to commercialize Liquidmetal alloys, particularly precious-metal based compositions, in jewelry and high-end luxury product markets. The Company, in turn, will receive royalty payments over the life of the contract on all Liquidmetal products produced and sold by LLPG. The Company recognized revenues from product sales and licensing fees of \$0 from LLPG during both the three and nine months ended September 30, 2010. The Company recognized revenues from product sales and licensing fees of \$0 and \$203 from LLPG during the three and nine months ended September 30, 2009, respectively. There are no accounts receivable from LLPG outstanding as of September 30, 2010 and December 31, 2009. On August 6, 2010, the Company paid \$360 to LLPG as a fee related to a modification of its existing exclusive license agreement in connection with the Apple licensing agreement.

## LIQUIDMETAL TECHNOLOGIES AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

For the Nine Months Ended September 30, 2010 and 2009

(in thousands, except share data)

(unaudited)

On June 1, 2007, the Company entered into a transaction with Grace Metal (currently Liquidmetal Korea Co., Ltd. "LMK"), under which (i) LMK agreed to purchase various equipments (including die casting machines and vacuum induction melters) used in the Company's bulk amorphous alloy business segment and (ii) the Company granted LMK a 10-year exclusive license to manufacture products made from bulk Liquidmetal alloys for customers whose principal headquarters or whose major operations are located in South Korea. LMK was formed by an investor group that includes the former director and officer of the Company, James Kang, who is also the brother of John Kang, former Chairman of the company.

In consideration of the license agreement with LMK, the Company was entitled to royalty of 10% of LMK's net sales of licensed products (unless LMK's margin on the products falls below specified levels, in which case a new royalty will be negotiated in good faith). Effective June 1, 2008, the royalty rate was adjusted to 5%. On June 15, 2010, the licensing agreement with LMK was terminated.

The Company purchased production supplies and outsourced production of certain bulk alloy production with LMK. In June 2008, the Company began sharing the use of its manufacturing facility and production equipment in Pyongtaek, South Korea, with LMK as the Company began significant outsourcing of its bulk alloy parts production. The Company incurred \$0 in expenses for purchase of production supplies and outsourcing fees during both the three and nine months ended September 30, 2010. The Company incurred expenses for purchase of production supplies and outsourcing fees of \$698 and \$1,135 during both the three and nine months ended September 30, 2009, respectively. There are \$0 included in accounts payable and accrued expenses for both September 30, 2010 and December 31, 2009 for outstanding trade payables due to LMK. The Company recognized \$0 revenue from sales of raw materials and royalties during both the three and nine months ended September 30, 2010. The Company recognized \$1,652 and \$3,775 revenue from sales of raw materials and royalties during the three and nine months ended September 30, 2009, respectively. There are \$0 included in net accounts receivables as of both September 30, 2010 and December 31, 2009, for outstanding trade receivables due from LMK.

#### 14. Subsequent Event

On November 3, 2010, the Company filed an Amended and Restated Certificate of Designations, Preferences, and Rights (the "Amended Designation") for the Company's Series A Preferred Stock (the "Series A Preferred Stock"). The Amended Designation was approved by the requisite vote of the holders of the Company's Series A Preferred Stock and was filed with the Delaware Secretary of State in accordance with a Consent Agreement entered into between the Company and the holders of 2/3 of the Series A Preferred Stock (the "Consent Agreement"). The Amended Designation amends the terms of the Series A Preferred Stock by (i) providing that dividends ceased accruing thereon as of June 1, 2010, (ii) the liquidation preference and corresponding conversion value on the Series A Preferred Stock was increased from 1.0 to 1.08 of the sum of the issue price and accrued but unpaid dividends, (iii) the Series A Preferred Stock is now mandatorily convertible at any time at the option of the Company without condition, and (iv) the Series A Preferred Stock will no longer have any price-based anti-dilution rights. The Consent Agreement provided that, in exchange for voting in favor of the Amended Designation, the warrants held by the holders signing the Consent Agreement (to the extent such warrants were issued in connection with the original issuance of the Series A Preferred Stock) will be extended to an expiration date of July 2015 and the price-based anti-dilution rights on such warrants are removed.

## Item 2 – Management’s Discussion and Analysis of Financial Condition and Results of Operations

*This management’s discussion and analysis should be read in conjunction with the condensed consolidated financial statements and notes included elsewhere in this report on Form 10-Q.*

*This management’s discussion and analysis, as well as other sections of this report on Form 10-Q, may contain “forward-looking statements” that involve risks and uncertainties, including statements regarding our plans, future events, objectives, expectations, forecasts, or assumptions. Any statement that is not a statement of historical fact is a forward-looking statement, and in some cases, words such as “believe,” “estimate,” “project,” “expect,” “intend,” “may,” “anticipate,” “plan,” “seek,” and similar expressions identify forward-looking statements. These statements involve risks and uncertainties that could cause actual outcomes and results to differ materially from the anticipated outcomes or results, and undue reliance should not be placed on these statements. These risks and uncertainties include, but are not limited to, the matters discussed under the heading “Item 1A. Risk Factors” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2009 and other risks and uncertainties discussed in other filings made with the Securities and Exchange Commission (including risks described in subsequent reports on Form 10-Q, Form 10-K, Form 8-K, and other filings). Liquidmetal Technologies disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events, or otherwise.*

### Overview

We are a materials technology company that develops and commercializes products made from amorphous alloys. Our Liquidmetal® family of alloys consists of a variety of coatings, powders, bulk alloys, and composites that utilize the advantages offered by amorphous alloy technology. We develop, manufacture, and sell products and components from bulk amorphous alloys that are incorporated into the finished goods of our customers, and we also market and sell amorphous alloy industrial coatings. We also partner with third-party licensees and distributors to develop and commercialize Liquidmetal alloy products. We have the exclusive right to develop, manufacture, and sell what we believe are the only commercially viable bulk amorphous alloys.

Amorphous alloys are unique materials that are distinguished by their ability to retain a random atomic structure when they solidify, in contrast to the crystalline atomic structure that forms in ordinary metals and alloys when they solidify. Liquidmetal alloys possess a combination of performance, processing, and cost advantages that we believe makes them preferable to other materials in a variety of applications. The amorphous atomic structure of our alloys enables them to overcome certain performance limitations caused by inherent weaknesses in crystalline atomic structures, thus facilitating performance and processing characteristics superior in many ways to those of their crystalline counterparts. For example, our zirconium-titanium Liquidmetal alloys are approximately 250% stronger than commonly used titanium alloys, such as Ti-6Al-4V, but they have processing characteristics similar in many respects to plastics. We believe these advantages could result in Liquidmetal alloys supplanting other incumbent materials in a wide variety of applications. Moreover, we believe these advantages will enable the introduction of entirely new products and applications that are not possible or commercially viable with other materials.

Our revenues are derived from two principal operating segments: Liquidmetal alloy industrial coatings and bulk Liquidmetal alloy products. Liquidmetal alloy industrial coatings are used primarily as a protective coating for industrial machinery and equipment, such as drill pipe used by the oil drilling industry and boiler tubes used in coal-burning power plants. Bulk Liquidmetal alloy segment revenue includes sales of parts or components of electronic devices, medical products, and sports and leisure goods, tooling and prototype parts (including demonstration parts and test samples) for customers with products in development, product licensing and arrangements, and research and development revenue relating primarily to defense and medical applications. We expect that these sources of revenue will continue to significantly change the character of our revenue mix.

The cost of sales for our Liquidmetal coatings segment consists primarily of the costs of outsourcing our manufacturing to third parties. Consistent with our expectations, our cost of sales has been increasing over historical results as we further build our bulk Liquidmetal alloy business. Although we plan to continue outsourcing the manufacturing of our coatings, we will internally manufacture many products derived from our bulk Liquidmetal alloys.

Selling, general, and administrative expenses currently consist primarily of salaries and related benefits, stock-based compensation, travel, consulting and professional fees, depreciation and amortization, insurance, office and administrative expenses, and other expenses related to our operations.

Research and development expenses represent salaries, related benefits expense, depreciation of research equipment, consulting and contract services, expenses incurred for the design and testing of new processing methods, expenses for the development of sample and prototype products, and other expenses related to the research and development of Liquidmetal alloys. Costs associated with research and development activities are expensed as incurred. We plan to enhance our competitive position by improving our existing technologies and developing advances in amorphous alloy technologies. We believe that our research and development efforts will focus on the discovery of new alloy compositions, the development of improved processing technology, and the identification of new applications for our alloys.

On July 24, 2007, we transferred substantially all of the assets of our Liquidmetal alloy industrial coatings business to a newly formed, newly capitalized subsidiary named Liquidmetal Coatings, LLC, a Delaware limited liability company ("LMC"), and LMC assumed substantially all of the liabilities of the coatings business. The transfer included the thermal spray coatings assets and liabilities acquired under a purchase agreement with Foster Wheeler Energy Services in June 2007. We initially held a 69.25% ownership interest in LMC, however, during 2010, LMC failed to redeem its preferred units by the specified time and was required to issue additional shares to its noteholders. As a result, our ownership interest in LMC decreased to 66.56%. The results of operation of LMC are consolidated and comprise our Liquidmetal alloy industrial coatings segment for financial reporting purposes.

In May 2010, LMC entered into a joint venture agreement with IMCO Alloys Private Limited ("IMCO") to create a subsidiary named Liquidmetal Coatings Solutions India Private Limited ("LMCSI") and engage in application services of Liquidmetal products as a protective coating. Initially, under the joint venture agreement, LMC held 80% and IMCO held 20% of the outstanding Class A Shares of LMCSI. LMC may, at its option, subscribe to Class B Shares of LMCSI. In September 2010, LMC provided to LMCSI approximately \$0.1 million in capital equipment and was issued 358,204 shares of Class B Shares of LMCSI. As of September 30, 2010, LMC holds an 88.60% ownership interest in LMCSI.

The following discussion and analysis of our financial condition and results of operations focuses on the historical results of our continuing operations.

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

The preparation of condensed consolidated financial statements in conformity with accounting principles generally accepted in the United States requires us to make estimates and assumptions that affect reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. These estimates and assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results could differ materially from these estimates under different assumptions or conditions.

We believe that the following accounting policies are the most critical to our condensed consolidated financial statements since these policies require significant judgment or involve complex estimates that are important to the portrayal of our financial condition and operating results:

- Exchange rate fluctuations
- Warranty accrual
- Allowance for doubtful accounts
- Inventories at lower of cost or net realizable value
- Deferred tax assets
- Valuation of derivatives of warrants and embedded conversion features

Our Annual Report on Form 10-K for the year ended December 31, 2009, contains further discussions on our critical accounting policies and estimates.



## Results of Operations

### Comparison of the three months ended September 30, 2010 and 2009

*Revenue.* Revenue increased by \$13.1 million to \$17.3 million for the three months ended September 30, 2010 from \$4.2 million for the three months ended September 30, 2009. The increase consisted of a \$13.3 million increase in revenue from the licensing and manufacturing of bulk Liquidmetal alloys, which was offset by a decrease of \$0.2 million from sales of our coating products.

*Cost of Sales.* Cost of sales decreased to \$1.6 million, or 9% of revenue, for the three months ended September 30, 2010 from \$2.9 million, or 69% of revenue, for the three months ended September 30, 2009. The decrease was a result of a continued change in revenue mix, primarily from licensing revenue, during the three months ended September 30, 2010. The cost to manufacture parts from our bulk Liquidmetal alloys is variable and differs based on the unique design of each product. However, the cost of sales for the products sold by the coatings business segment is generally consistent because the Liquidmetal coatings products are produced by third parties and sold wholesale to various industries.

*Selling, General, and Administrative Expenses.* Selling, general, and administrative expenses increased to \$2.4 million, or 14% of revenue, for the three months ended September 30, 2010 from \$1.3 million, or 32% of revenue, for the three months ended September 30, 2009. The increase was primarily a result of increases in legal and director fees of \$0.7 million and an increase in other expense due to the LLPG license agreement modification fee of \$0.4 million.

*Research and Development Expenses.* Research and development expenses were \$0.3 million, or 2% of revenue, for the three months ended September 30, 2010 and \$0.3 million, or 8% of revenue, for the three months ended September 30, 2009. We continue to perform research and development of new Liquidmetal alloys and related processing capabilities, develop new manufacturing techniques, and contract with consultants to advance the development of Liquidmetal alloys.

*Change in Value of Warrants.* Change in value of warrants decreased to a loss of \$27.2 million, or 157% of revenue, for the three months ended September 30, 2010 from a gain of \$2.1 million, or 48% of revenue, for the three months ended September 30, 2009. The change in value of warrants, consisting of warrants issued from convertible and subordinated notes and convertible preferred stock issued between 2004 and 2009, was a significant loss for the three months ended September 30, 2010 primarily due to significant increases in our stock price since June 30, 2010.

*Change in Value of Conversion Feature.* Change in the value of conversion feature liability from our convertible notes resulted in a gain of \$15 thousand, or 0.09% of revenue, during the three months ended September 30, 2010 from a gain of \$0.5 million, or 11% of revenue, for the three months ended September 30, 2009, due to the retirement of our convertible notes.

*Other Income.* Other income was \$18 thousand for the three months ended September 30, 2010 which consisted of a write-off of accounts payable. There was no other income for the three months ended September 30, 2009.

*Interest Expense.* Interest expense was \$2.5 million, or 14% of revenue, for the three months ended September 30, 2010 and was \$1.1 million, or 25% of revenue, for the three months ended September 30, 2009. Interest expense consists primarily of debt discount amortization and interest accrued on outstanding convertible and subordinated notes, borrowings under a factoring, loan, and security agreement, a revolving loan agreement, and the Kookmin loan. The increase was primarily due to increase in debt discount amortization expense in conjunction with the retirement of our senior convertible notes.

### Comparison of the nine months ended September 30, 2010 and 2009

*Revenue.* Revenue increased by \$10.9 million to \$22.2 million for the nine months ended September 30, 2010 from \$11.3 million for the nine months ended September 30, 2009. The increase was primarily due to an increase in revenue from the licensing and manufacturing of bulk Liquidmetal alloys.

*Cost of Sales.* Cost of sales decreased to \$5.4 million, or 24% of revenue, for the nine months ended September 30, 2010 from \$6.9 million, or 61% of revenue, for the nine months ended September 30, 2009. The decrease was a result of a continued change in revenue mix, primarily from licensing revenue, during the nine months ended September 30, 2010. The cost to manufacture parts from our bulk Liquidmetal alloys is variable and differs based on the unique design of each product. However, the cost of sales for the products sold by the coatings business segment is generally consistent because the Liquidmetal coatings products are produced by third parties and sold wholesale to various industries.

*Selling, General, and Administrative Expenses.* Selling, general, and administrative expenses increased to \$5.1 million, or 23% of revenue, for the nine months ended September 30, 2010 from \$4.3 million, or 38% of revenue, for the nine months ended September 30, 2009. The increase was primarily a result of increases in director's fees of \$0.4 million and increases in other expense due to the LLPG license agreement modification fee of \$0.4 million.

*Research and Development Expenses.* Research and development expenses were \$0.8 million, or 4% of revenue, for the nine months ended September 30, 2010 and \$0.9 million, or 8% of revenue for the nine months ended September 30, 2009. The decrease was primarily a result of a decrease in patent and trademark expenses although we continue to perform research and development of new Liquidmetal alloys and related processing capabilities, develop new manufacturing techniques, and contract with consultants to advance the development of Liquidmetal alloys.

*Loss from Extinguishment of Debt.* Loss from extinguishment of debt decreased to \$0 for the nine months ended September 30, 2010 from \$1.5 million, or 13% of revenue, for the nine months ended September 30, 2009. The \$1.5 million loss was recognized from extinguishment of certain of our convertible and subordinated notes during 2009.

*Change in Value of Warrants.* Change in value of warrants decreased to a loss of \$24.4 million, or 110% of revenue, for the nine months ended September 30, 2010 from a gain of \$8.1 million, or 72% of revenue, for the nine months ended September 30, 2009. The change in value of warrants, consisting of warrants issued from convertible and subordinated notes and convertible preferred stock issued between 2004 and 2009, was a significant loss for the nine months ended September 30, 2010 primarily due to significant increases in our stock price since June 30, 2010.

*Change in Value of Conversion Feature.* Change in the value of conversion feature liability from our convertible notes resulted in a gain of \$0.4 million, or 2% of revenue, during the nine months ended September 30, 2010 from a gain of \$1.4 million, or 12% of revenue, for the nine months ended September 30, 2009, primarily as a result of fluctuations in our stock price and the retirement of our convertible notes.

*Other Income.* Other income was \$0.1 million, for the nine months ended September 30, 2010, which consisted of a write-off of accounts payable. There was no other income for the nine months ended September 30, 2009.

*Interest Expense.* Interest expense was \$5.1 million, or 23% of revenue, for the nine months ended September 30, 2010 and was \$4.8 million, or 42% of revenue, for the nine months ended September 30, 2009. Interest expense consists primarily of debt discount amortization and interest accrued on outstanding convertible and subordinated notes, borrowings under a factoring, loan, and security agreement, and a revolving loan agreement. The increase was primarily due to increase in debt discount amortization expense in conjunction with the retirement of our senior convertible notes.

## **Liquidity and Capital Resources**

Our cash provided by operating activities was \$8.7 million for the nine months ended September 30, 2010. Our working capital deficit increased from \$13.1 million at December 31, 2009 to \$27.8 million at September 30, 2010. The working capital deficit increase of \$14.7 million was attributable to an increase in warrant liabilities of \$22.8 million offset by an increase in cash and cash equivalents of \$3.0 million, an increase of prepaid expenses and other current assets of \$0.1 million, a decrease in accounts payable and accrued expenses of \$2.7 million, a decrease in short-term debt of \$0.5 million, a decrease in long-term debt, current portion of \$1.4 million and a decrease in conversion feature liabilities of \$0.4 million.

Our cash used in investing activities was \$0.2 million for the nine months ended September 30, 2010 for the acquisition of property and equipment and investments in patents and trademarks.

Our cash used by financing activities was \$4.6 million for the nine months ended September 30, 2010. We paid net \$17.3 million in borrowings mainly for our convertible subordinated notes, our subordinated promissory note, our bridge note, a factoring, loan and security agreement, and related party advances, which were offset by \$9.6 million in borrowings mainly from an additional term loan as payment for monthly accrued interest due, short term borrowings, and a promissory note, \$2.0 million in subscriptions for our common stock and \$1.0 million of warrants exercised.

On May 1, 2009, we completed a financing transaction (the "Transaction") whereby aggregate cash of \$2.5 million and principal and accrued interest of \$20.6 million due under the previously issued 8% Convertible Subordinated Notes due January 2010 (the "Prior Notes") were exchanged for 500,000 shares of convertible Series A-1 Preferred Stock with an original issue price of \$5.00 per share, 2,625,002 shares of Series A-2 Preferred Stock with an original issue price of \$5.00 per share, and \$7.5 million of new 8% Senior Secured Convertible Subordinated Notes due January 3, 2011 (the "January 2011 Notes"). The Transaction was consummated pursuant to a Securities Purchase and Exchange Agreement, dated May 1, 2009 among the exchanging note holders and investors.

Our Series A-1 and Series A-2 Preferred Stock accrue cumulative dividends at an annual rate of 8%, which is payable semi-annually. Beginning on the second anniversary of the initial issuance of shares of our Series A-1 and Series A-2 Preferred Stock, the dividend will increase to 10%. As of September 30, 2010, we have accrued dividends of \$1.1 million included in accounts payable and other accrued expenses. The dividends are payable in cash or in kind by the issuance by the company of additional preferred stock, only when and as declared by our Board of Directors. On August 5, 2010, we repaid in full all principal and interest on the January 2011 Notes in the amount of \$8.2 million and all security interests on our assets securing such obligations were released and terminated.

The Series A-1 Preferred Stock, Series A-2 Preferred Stock, and January 2011 Notes are convertible into the company's common stock at conversion price of \$0.10, \$0.22, and \$0.60 per common share, respectively. We issued warrants to purchase 3,125,007 shares and 42,329,407 shares of our company's common stock at an exercise of \$0.60 and \$0.50 per share to the buyers of the January 2011 Notes and the buyers of shares of our Series A-1 and Series A-2 Preferred Stock, respectively. The warrants will expire in January 2012. The conversion prices and the number of shares of common stock issuable under the Series A-1 and Series A-2 Preferred Stock, the January 2011 Notes and the warrants are subject to adjustments for anti-dilution purposes.

On November 3, 2010, we filed an Amended and Restated Certificate of Designations, Preferences, and Rights (the "Amended Designation") for our Series A Preferred Stock (the "Series A Preferred Stock"). The Amended Designation was approved by the requisite vote of the holders of our Series A Preferred Stock and was filed with the Delaware Secretary of State in accordance with a Consent Agreement entered into between us and the holders of 2/3 of the Series A Preferred Stock (the "Consent Agreement"). The Amended Designation amends the terms of the Series A Preferred Stock by (i) providing that dividends ceased accruing thereon as of June 1, 2010, (ii) the liquidation preference and corresponding conversion value on the Series A Preferred Stock was increased from 1.0 to 1.08 of the sum of the issue price and accrued but unpaid dividends, (iii) the Series A Preferred Stock is now mandatorily convertible at any time at our option without condition, and (iv) the Series A Preferred Stock will no longer have any price-based anti-dilution rights. The Consent Agreement provided that, in exchange for voting in favor of the Amended Designation, the warrants held by the holders signing the Consent Agreement (to the extent such warrants were issued in connection with the original issuance of the Series A Preferred Stock) will be extended to an expiration date of July 2015 and the price-based anti-dilution rights on such warrants are removed.

On May 28, 2010, we issued \$2.0 million of 13% Subordinated Promissory Note ("the January 2011 Subordinated Note") due on the earlier date of January 3, 2011 or the date on which all outstanding amounts are due under the Company's 8% January 2011 Notes. On August 5, 2010, we repaid in full all principal and interest on the January 2011 Subordinated Notes in the amount of \$2.0 million. In connection with the repayment, on August 10, 2010, we entered into a Subscription Agreement pursuant to which the Company issued 7,870,307 shares of the Company's common stock to the noteholder for an aggregate price of \$2.0 million.

On August 5, 2010, we entered into a licensing agreement with Apple Inc. ("Apple") pursuant to which (i) we contributed substantially all of our intellectual property assets to a newly organized special-purpose, wholly-owned subsidiary, called Crucible Intellectual Property ("CIP"), (ii) CIP granted to Apple a perpetual, worldwide, fully-paid, exclusive license to commercialize such intellectual property in the field of consumer electronic products in exchange for a license fee, and (iii) CIP granted back to us a perpetual, worldwide, fully-paid, exclusive license to commercialize such intellectual property in all other fields of use. Upon closing of the foregoing transaction, we were paid a portion of the license fee which was used to pay off noteholders and fund operations. 90 days after the closing date and upon completion of certain support milestones, we shall be paid the remaining portion of the license fee.

As of September 30, 2010, we have outstanding liens on assets of our South Korean subsidiary by various creditors in South Korea for past-due trade payables totaling \$2.2 million. We are currently working to resolve the matter with each creditor by seeking a forbearance or compromise. If we cannot repay the amounts due or obtain a forbearance or compromise, the creditors may seek to foreclose on our assets located in Korea.

### **Off Balance Sheet Arrangements**

An off-balance sheet arrangement is any transaction, agreement or other contractual arrangement involving an unconsolidated entity under which a company has (1) made guarantees, (2) retained a contingent interest in transferred assets, (3) an obligation under derivative instruments classified as equity, or (4) any obligation arising out of a material variable interest in an unconsolidated entity that provides financing, liquidity, market risk or credit risk support to the company, or that engages in leasing, hedging, or research and development arrangements with the company.

On June 26, 2006, we entered into a joint venture agreement with SAGA, SpA in Padova, Italy (“SAGA”) a specialist precision parts manufacturer. The joint venture is named Liquidmetal SAGA Italy, Srl (“LSI”). We also entered into an exclusive manufacturing license agreement for the eyewear industry with LSI. Under the joint venture agreement, we have the option to buy an ownership interest in LSI, initially, of 19.9% to up to 50%. In December 2006, we exercised our right to acquire a 19.9% ownership interest in LSI and in January 2007 and June 2007 and contributed an additional \$0.2 million and \$0.1 million, respectively, into LSI as additional investment. The contribution did not change our 19.9% interest in LSI. Under the licensing agreement, at any time following 18 months after the effective date of the agreement, LSI may exercise its option to sell to us certain business assets including manufacturing equipment acquired under the joint venture. During the fourth quarter of the year ended December 31, 2009, we wrote-off its investment of \$0.3 million in the joint venture due to lower than anticipated growth in the eye wear industry. On August 6, 2010, SAGA filed a complaint against us claiming damages of \$3.2 million for payment on an alleged loan and for alleged breach of contract in connection with the formation of LSI. We are in the process of responding to the claim and working with SAGA to resolve the matter.

### **Item 3 – Quantitative and Qualitative Disclosures about Market Risk**

Not required.

### **Item 4 – Controls and Procedures**

Evaluation of Disclosure Controls and Procedures. Based on an evaluation of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) as of September 30, 2010, the end of the period covered by this report, our Chief Executive Officer (principal executive officer) and Chief Financial Officer (principal financial officer) have concluded that our disclosure controls and procedures were effective.

Changes in Internal Control. During the quarter ended September 30, 2010, there was no change in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**PART II**  
**OTHER INFORMATION**

**Item 1 – Legal Proceedings**

On August 6, 2010, SAGA, SpA in Padova, Italy (“SAGA”) filed a complaint against us in the County of Orange in California claiming damages of \$3.2 million for payment on an alleged loan and for alleged breach of contract in connection with the formation of LSI, a joint venture between us and SAGA. We are in the process of responding to the claim and working with SAGA to resolve the matter.

There are no other material legal proceedings that are pending.

**Item 1A – Risk Factors**

None.

**Item 2 – Unregistered Sales of Equity Securities and Use of Proceeds**

None

**Item 3 – Defaults Upon Senior Securities**

None

**Item 4 – Removed and Reserved**

**Item 5 – Other Information**

None.

**Item 6 – Exhibits**

The following documents are filed as an exhibit to this Report:

Exhibit Number	Description of Document
3.1	Amended and Restated Certificate of Designations, Preferences and Right, dated November 2, 2010, between Liquidmetal Technologies, Inc. and holders of the Series A-1 Preferred Stock and holders of the Series A-2 Preferred Stock.
10.1	Employment Agreement, dated August 3, 2010, between Thomas Steipp and Liquidmetal Technologies, Inc.
10.2	Restricted Stock Agreement, dated August 3, 2010, between Thomas Steipp and Liquidmetal Technologies, Inc.
10.3*	Master Transaction Agreement, dated August 5, 2010, between Apple Inc., Liquidmetal Technologies, Inc., Liquidmetal Coatings, LLC and Crucible Intellectual Property, LLC.
10.4	Subscription Agreement, dated August 10, 2010, between Liquidmetal Technologies, Inc. and Norden LLC.
10.5	Consent Agreement between Liquidmetal Technologies, Inc. and holders of the Series A-1 Preferred Stock and holders of the Series A-2 Preferred Stock.
31.1	Certification of Principal Executive Officer, Thomas Steipp, as required by Section 302 of the Sarbanes-Oxley Act of 2002

- 31.2 Certification of Principal Financial Officer, Tony Chung, as required by Section 302 of the Sarbanes-Oxley Act of 2002
- 32.1 Certification of Principal Executive Officer, Thomas Steipp, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 32.2 Certification of Principal Financial Officer, Tony Chung, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- \* Portions of this exhibit have been omitted pursuant to a confidential treatment request. Omitted information has been filed separately with the Securities and Exchange Commission

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

LIQUIDMETAL TECHNOLOGIES, INC.  
(Registrant)

Date: November 4, 2010

/s/ Thomas Steipp  
Thomas Steipp  
President and Chief Executive Officer  
(Principal Executive Officer)

Date: November 4, 2010

/s/ Tony Chung  
Tony Chung  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

AMENDED AND RESTATED  
CERTIFICATE OF DESIGNATIONS, PREFERENCES AND RIGHTS

OF

SERIES A PREFERRED STOCK

OF

LIQUIDMETAL TECHNOLOGIES, INC.

(Pursuant to Section 151 of the  
Delaware General Corporation Law)

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Pursuant to Section 242 of the Delaware General Corporation Law, the undersigned officer hereby certifies that:

A. He is the duly elected and acting Chief Executive Officer of Liquidmetal Technologies, Inc., a Delaware corporation (the "Company").

B. On May 1, 2009, the Company filed with the Delaware Secretary of State a Certificate of Designations, Preferences, and Rights of Series A Preferred Stock (the "Designation") creating a series of 1,875,000 shares of "Series A-1 Preferred Stock" (hereinafter called the "Series A-1 Preferred Stock") and a series of 3,281,253 shares of "Series A-2 Preferred Stock" (hereinafter called the "Series A-2 Preferred Stock").

C. Pursuant to resolutions duly adopted by the board of directors of the Company as of October 29, 2010, the Chief Executive Officer of the Company was authorized and directed to file an amended and restated Designation setting forth the changes to the rights and preferences of the Series A-1 Preferred Stock and Series A-2 Preferred Stock as are set forth below (the "Amended Designation").

D. The Amended Designation was duly approved and consented to by the holders of the Series A-1 Preferred Stock and Series A-2 Preferred Stock (both as separate classes and as a single class) pursuant to and in accordance with Sections 6 and 7 of the Designation, Article VIII of the Company's Certificate of Incorporation, as amended, and Section 242 of the Delaware General Corporation Law.

NOW, THEREFORE, the Designation is hereby amended and restated as follows:

"Pursuant to authority vested in the Board or Directors of the Company by Article IV of the Company's Certificate of Incorporation, out of the total authorized number of ten million (10,000,000) shares of Company preferred stock (the "Preferred Stock"), par value \$0.001 per share, there shall be designated (i) a series of one million eight hundred seventy-five thousand (1,875,000) shares which shall be issued hereunder and constitute a single series to be known as "Series A-1 Preferred Stock" (hereinafter called the "Series A-1 Preferred Stock") and (ii) a series of three million two hundred eighty-one thousand two hundred fifty-three (3,281,253) shares which shall be issued hereunder and constitute a single series to be known as "Series A-2 Preferred Stock" (hereinafter called the "Series A-2 Preferred Stock", and together with the Series A-1 Preferred Stock, the "Series A Preferred Stock"). The shares of Series A Preferred Stock have the voting powers, designations, preferences and other special rights, and qualifications, limitations and restrictions thereof set forth below:

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1. Certain Definitions.

“Approved Stock Plan” means any employee benefit, option or incentive plan which has been approved by the Board of Directors and shareholders of the Company, pursuant to which the Company’s securities may be issued to any employee, consultant, officer or director for services provided to the Company; provided that the number of shares of the Company’s Common Stock issuable pursuant to such plans, in the aggregate, shall not exceed 10% of the shares of the Company’s Common Stock outstanding on a fully-diluted basis on the date of the First Closing (as defined in the Securities Purchase and Exchange Agreement) after giving effect to the First Closing and the full exercise of the Series A-1 Option (as defined in the Securities Purchase and Exchange Agreement), as adjusted for stock splits, reverse stock splits, and the like, unless such increased amount of shares is approved by the holders of the Company’s Common Stock and the holders of the Company’s Series A Preferred Stock voting together as a single class. For purposes of this definition, “fully-diluted basis” shall take into account all outstanding shares of Common Stock as well as all shares of Common Stock issuable upon the conversion of all outstanding convertible securities of the Company, including all options and warrants granted.

“Buyer” means a buyer under the Securities Purchase and Exchange Agreement.

“Charter Amendment” shall have the meaning set forth in the Securities Purchase and Exchange Agreement.

“Closing Bid Price” and “Closing Sale Price” means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the OTC Bulletin Board, as reported by Bloomberg Financial Markets, or, if the OTC Bulletin Board begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00 p.m., New York Time, as reported by Bloomberg Financial Markets, or, if the OTC Bulletin Board is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg Financial Markets, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg Financial Markets, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg Financial Markets, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported by Pink OTC Markets (formerly known as Pink Sheets). If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the holders of Series A Preferred Stock. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

“Common Stock” means the common stock, \$0.001 par value, of the Company, including the stock into which the Series A Preferred Stock is convertible, and any capital stock of any class of the Company thereafter authorized that shall not be limited to a fixed sum in respect of the rights of the holders thereof to participate in dividends or in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding up of the Company.

“Convertible Securities” means any evidences of indebtedness, shares or other securities directly or indirectly convertible into or exchangeable for Common Stock, but excluding Options.

“Current Market Price” shall mean, with respect to any shares of capital stock or other securities, (i) if such stock or securities are listed or admitted to trading on a national securities exchange or an inter-dealer quotation system or traded in the over-the-counter market, the price per share or security, as the case may be, at the close of trading on the Trading Day on which the relevant determination is to be made or, if such day is not a Trading Day, the Trading Day immediately preceding such day and (ii) if such stock or security is not so listed, admitted or traded, the fair market value of such stock or security as determined by the Board of Directors of the Company or, if the Board of Directors of the Company cannot agree, as determined by an Independent Appraiser (as defined below).

“Excluded Securities” means any share of Common Stock issued or issuable: (i) in connection with any Approved Stock Plan; (ii) upon exercise of any warrants of the Company issued pursuant to the Securities Purchase and Exchange Agreement or as dividends on the Series A Preferred Stock, or (C) in connection with any public offering by the Company; (iii) upon conversion or exercise of any Options or Convertible Securities which are outstanding on the Original Issuance Date, (iv) pursuant to or in connection with commercial credit arrangements, equipment lease financings, acquisitions of other assets or businesses, and strategic transactions not primarily for financing purposes (including licensing or development agreements), but only to the extent the transactions described in this clause (iv) are entered into with non-affiliates of the Company.

“Independent Appraiser” means an investment banking firm, appraisal firm or any other financial expert of recognized national standing in the United States, selected by the holders of a majority of the Series A Preferred Stock and reasonably acceptable to the Company, that does not (or whose directors, officers, employees, affiliates or stockholders do not) have a direct or indirect material financial interest in the Company or a 5% or greater holder of Series A Preferred Stock, who has not been, and, at the time called upon to give independent financial advice to the Company or a holder of Series A Preferred Stock, is not (and none of its directors, officers, affiliates or stockholders are) a promoter, director or officer of the Company.

“Options” means rights, options or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities.

“Original Issuance Date” means May 1, 2009.

“Securities Purchase and Exchange Agreement” means the Securities Purchase and Exchange Agreement, dated May 1, 2009, among the Company and the persons identified as “Buyers” therein.

“Senior Indebtedness” means the principal of (and premium, if any), interest on, and all fees and other amounts (including, without limitation, any reasonable costs, enforcement expenses (including reasonable legal fees and disbursements, collateral protection expenses and other reimbursement or indemnity obligations relating thereto)), and all other obligations of the Company under (i) any of the agreements or instruments evidencing any indebtedness of the Company and its subsidiaries arising after the Original Issuance Date to an unaffiliated, third-party commercial lender (together with any renewals, refundings, refinancings or other extensions thereof) for purposes of purchasing equipment (which debt shall be secured only by the assets purchased with such financing), and (ii) indebtedness not to exceed \$4,000,000 in the aggregate that is secured solely by the Company’s and/or its subsidiaries’ accounts receivable and/or inventory.

“Series A Issuance Price” means \$5.00 per share.

“Trading Day” means (i) if the relevant stock or security is listed or admitted for trading on the New York Stock Exchange or any other national securities exchange, a day on which such exchange is open for business; (ii) if the relevant stock or security is not listed or admitted for trading on any national securities exchange but is quoted on any system for the automated dissemination of quotations of securities prices, a day on which trades may be effected through such system; or (iii) if the relevant stock or security is not listed or admitted for trading on any national securities exchange or quoted on any system for the automated dissemination of quotation of securities prices, a day on which the relevant stock or security is traded in a regular way in the over-the-counter market and for which a closing bid and a closing asked price for such stock or security are available.

2. Dividends.

2A. The holders of the Series A Preferred Stock shall be entitled to receive dividends, which shall begin to accrue on and be cumulative from the date of issuance of the Series A Preferred Stock (whether or not such dividends have been declared and whether or not there shall be net profits or net assets of the Company legally available for the payment of such dividends) through and until June 1, 2010, at an annual rate equal to eight percent (8%) of the sum of (A) the Series A Issuance Price plus (B) any accrued dividends through the immediately preceding Dividend Accrual Date that remain unpaid (the amount of such dividends being referred to as the "Dividend Amount"). The dividends shall accrue semi-annually on June 1 and December 1 of each year (the "Dividend Accrual Dates") and shall be payable either in cash or in kind by issuance by the Company of additional shares of Series A Preferred Stock (the "PIK Shares") at the option of the Company of the same securities. For purposes of clarification, if the Company pays any Dividend Amount on shares of Series A-1 Preferred Stock in PIK Shares, then such PIK Shares shall be shares of Series A-1 Preferred Stock. If the Company pays any Dividend Amount on shares of Series A-2 Preferred Stock in PIK Shares, then such PIK Shares shall be shares of Series A-2 Preferred Stock. Dividends shall be payable only when and as declared by the Board of Directors of the Company. If the Company elects to pay any Dividend Amount in PIK Shares, each holder of Series A Preferred Stock shall be deemed to be the holder of record of such holder's pro rata share of the PIK Shares issuable with respect to the relevant Dividend Amount notwithstanding that the stock transfer books of the Company shall then be closed or that certificates evidencing such PIK Shares shall not have been actually delivered to such holder of Series A Preferred Stock. In the event that dividends on the Series A Preferred Stock are paid with PIK Shares, each such PIK Share (i) shall be valued at the then applicable Liquidation Preference per share and (ii) shall have the same Liquidation Preference as each share of Series A Preferred Stock with respect to which the PIK Share constituted a dividend. No dividends shall be paid on any Common Stock of the Company or any capital stock of the Company that ranks junior to the Series A Preferred Stock during any fiscal year of the Company until dividends in the aggregate Dividend Amount per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) of Series A Preferred Stock for the current and each prior Dividend Accrual Date shall have been paid or declared and set apart for payment to the holders of the Series A Preferred Stock. For purposes hereof, the "Liquidation Preference" of a share of Series A Preferred Stock means, as of any specified date, the sum of (A) the Series A Issuance Price of such share plus (B) any accrued but unpaid dividends on such share through the Dividend Accrual Date that immediately precedes the specified date.

2B. The amount of dividends payable for any period shorter than a full year shall be determined on the basis of twelve 30-day months and a 360-day year. Dividends paid on the shares of Series A Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding.

3. Liquidation; Redemption.

3A. Liquidation. Upon any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, the holders of the shares of Series A Preferred Stock shall be entitled, before any distributions shall be made to the holders of the Common Stock, or any other class of capital stock of the Company ranking junior to the Series A Preferred Stock, to be paid an amount (the "Series A Liquidation Amount") equal to 1.08 multiplied by the Liquidation Preference per share (appropriately adjusted to reflect the occurrence of any stock split, stock dividend, stock combination, stock subdivision or like occurrences); provided that if the amount per share that would be received by the holders of the shares of Series A Preferred Stock of any series if the assets of the Company were distributed ratably to the holders of the Common Stock and the Series A Preferred Stock on an as converted to Common Stock basis would be greater than the Liquidation Preference, then the holders of the Series A Preferred Stock of such series shall be entitled to receive such greater amount. If upon such liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, the assets to be distributed among the holders of Series A Preferred Stock of the Company shall be insufficient to permit payment to the holders of Series A Preferred Stock of the full Series A Liquidation Amount, then the entire assets of the Company to be distributed shall be distributed to the holders of Series A Preferred Stock. Written notice of such liquidation, dissolution or winding up, stating a payment date, the Series A Liquidation Amount and the place where said sums shall be payable shall be given by mail, postage prepaid, not less than 30 or more than 60 days prior to the payment date stated therein, to the holders of record of each series of Series A Preferred Stock, such notice to be addressed to each shareholder at his post office address as shown by the records of the Company. Unless waived in writing by the holders of a majority of the Series A Preferred Stock then outstanding, voting together as one class, a consolidation or merger of the Company into or with any other entity or entities, or the sale or transfer by the Company of all or substantially all of its assets, in each case under circumstances in which the holders of a majority in voting power of the outstanding capital stock of the Company, immediately prior to such a merger, consolidation or sale, own less than a majority in voting power of the outstanding capital stock of the company or the surviving or resulting company or acquirer, as the case may be, immediately following such a merger, consolidation or sale (each such transaction being hereinafter referred to as a "Corporate Transaction") shall be treated as a liquidation within the meaning of this paragraph 3 for the purpose of determining the consideration to be received by holders of the Series A Preferred Stock upon redemption of such shares as well as the timing of such deemed redemption.

3B. Optional Redemption. The Company shall have the right at any time when no Notes remain outstanding to redeem the Series A Preferred Stock in whole or in part upon not less than 30 days' notice at a redemption price equal to the Liquidation Preference plus any accrued and unpaid dividends through the redemption date. Such redemption notice will include a certification by the Company's Chief Executive Officer that the Company has sufficient funds available for such redemption. In the event of a redemption of the Series A Preferred Stock in part, the Company shall redeem the shares of each holder of Series A Preferred Stock pro rata (subject to rounding for fractional shares of Series A Preferred Stock). The holders of Series A Preferred Stock shall have the right to convert the Series A Preferred Stock into Common Stock as set forth in Section 4A below at any time prior to the redemption date.

4. Conversion.

4A. Right to Convert. Subject to the terms and conditions of this subparagraph 4A, the holder of any share or shares of Series A Preferred Stock shall have the right, at its option at any time, to convert any such shares of Series A Preferred Stock into such number of fully paid and nonassessable whole shares of Common Stock as is obtained by multiplying (A) the number of shares of Series A Preferred Stock so to be converted by (B) the Liquidation Preference per share multiplied by 1.08, and dividing the result (together with any accrued but unpaid dividends on the shares being converted as of the conversion date) by (i) in the case of Series A-1 Preferred Stock, the conversion price of \$0.10 per share of Common Stock, (ii) in the case of Series A-2 Preferred Stock, the conversion price of \$0.22 per share of Common Stock, or (iii) if there has been an adjustment of such conversion prices, by the conversion prices as last adjusted and in effect at the date any share or shares of Series A Preferred Stock are surrendered for conversion (such prices, or such prices as last adjusted, being referred to herein as the “Series A-1 Conversion Price” for the Series A-1 Preferred Stock and the “Series A-2 Conversion Price” for the Series A-2 Preferred Stock, and the Series A-1 Conversion Price and Series A-2 Conversion Price are herein together referred to as the “Conversion Price”). Such right of conversion shall be exercised by the holder thereof by surrender of a certificate or certificates for the shares to be converted to the Company at its principal office (or such other office or agency of the Company as the Company may designate by notice in writing to the holder or holders of the Series A Preferred Stock) at any time during its usual business hours on the date set forth in such notice, together with a properly completed notice of conversion in the form attached to the Series A Preferred Stock certificate with a statement of the name or names (with address), subject to compliance with applicable laws to the extent such designation shall involve a transfer, in which the certificate or certificates for shares of Common Stock, shall be issued. No dividends will be paid on the Series A Preferred Stock at the time of conversion.

4B. Issuance of Certificates; Time Conversion Effected. On or before the second business day following the date of receipt by the Company of the written notice referred to in subparagraph 4A and surrender of the certificate or certificates for the share or shares of the Series A Preferred Stock to be converted (the “Share Delivery Date”), the Company shall issue and deliver, or cause to be issued and delivered, to the holder, registered in such name or names as such holder may direct, subject to compliance with applicable laws to the extent such designation shall involve a transfer, a certificate or certificates for the number of whole shares of Common Stock issuable upon the conversion of such share or shares of Series A Preferred Stock. To the extent permitted by law, such conversion shall be deemed to have been effected and the Conversion Price shall be determined as of the close of business on the date on which such written notice shall have been received by the Company and the certificate or certificates for such shares shall have been surrendered as aforesaid, and at such time the Series A Preferred Stock rights of the holder of such share or shares shall cease, and the person or persons in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares represented thereby.

4C. Fractional Shares; Dividends; Partial Conversion. No fractional shares shall be issued upon conversion of the Series A Preferred Stock into Common Stock, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole share, and no payment or adjustment shall be made upon any conversion on account of any cash dividends paid on the Series A Preferred Stock so converted or the Common Stock issued upon such conversion. In case the number of shares of Series A Preferred Stock represented by the certificate or certificates surrendered pursuant to subparagraph 4A exceeds the number of shares converted, the Company shall upon such conversion, execute and deliver to the holder thereof at the expense of the Company, a new certificate for the number of shares of Series A Preferred Stock represented by the certificate or certificates surrendered which are not to be converted.

4D. Adjustments to Conversion Price.

(1) [Reserved]

(2). Subdivision or Combination of Stock. In case the Company shall at any time subdivide its outstanding shares of Common Stock into a greater number of shares or shall declare or pay a dividend on its outstanding shares of Common Stock payable in shares of Common Stock, the Series A-1 Conversion Price and Series A-2 Conversion Price in effect immediately prior to such subdivision shall be proportionately reduced, and conversely, in case the outstanding shares of Common Stock of the Company shall be combined into a smaller number of shares, such Conversion Prices in effect immediately prior to such combination shall be proportionately increased.

(3). Record Date. In case the Company shall take a record of the holders of its Common Stock for the purpose of entitling them (i) to receive a dividend or other distribution payable in Common Stock, Options or Convertible Securities, or (ii) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(4). Certain Distributions. If, at any time or from time to time after the Original Issuance Date, the Company shall issue or distribute to the holders of shares other than Series A Preferred Stock (the "Dividend Stock") evidences of its indebtedness, any other securities of the Company or any cash, property or other assets (excluding any issuance or distribution described in paragraph 4D(2) or 4(E), and also excluding cash dividends or cash distributions paid out of net profits legally available therefor in the full amount thereof) (any such non-excluded event being herein called a "Special Dividend"), then and in each such event the holders of each series of Series A Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Series A Preferred Stock of such series had been converted into Common Stock on the date of such event.

4E. Reorganization or Reclassification. If any capital reorganization or reclassification of the capital stock of the Company shall be effected in such a way (including, without limitation, by way of consolidation or merger, but excluding a consolidation, merger or sale which is treated as a Liquidation with respect to holders of Series A Preferred Stock for purposes of paragraph 3) that holders of Common Stock shall be entitled to receive stock, securities or assets with respect to or in exchange for Common Stock then, as a condition of such reorganization or reclassification, lawful and adequate provision (in form satisfactory to the holders of at least a majority of the outstanding shares of Series A Preferred Stock, voting together as one class) shall be made whereby each holder of a share or shares of Series A Preferred Stock shall thereafter have the right to receive, upon the basis and upon the terms and conditions specified herein and in lieu of the shares of Common Stock of the Company immediately theretofore receivable upon the conversion of such share or shares of the Series A Preferred Stock, such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for a number of outstanding shares of Common Stock equal to the number of shares of such stock immediately theretofore so receivable had such reorganization or reclassification not taken place and in any such case appropriate provision shall be made with respect to the rights and interests of such holder to the end that the provisions hereof (including without limitation provisions for adjustments of the Conversion Price) shall thereafter be applicable, as nearly as may be, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise of such conversion rights (including an immediate adjustment, by reason of such reorganization or reclassification, of the Conversion Price to the value for the Common Stock reflected by the terms of such reorganization or reclassification if the value so reflected is less than the Conversion Price in effect immediately prior to such reorganization or reclassification). In the event of a merger or consolidation of the Company as a result of which a greater or lesser number of shares of common stock of the surviving company are issuable to holders of the Common Stock of the Company outstanding immediately prior to such merger or consolidation, the Conversion Price in effect immediately prior to such merger or consolidation shall be adjusted in the same manner as though there were a subdivision or combination of the outstanding shares of Common Stock of the Company. The Company will not effect any such consolidation or merger, or any sale of all or substantially all its assets and properties, unless prior to the consummation thereof the successor company (if other than the Company) resulting from such consolidation or merger or the company purchasing such assets shall assume by written instrument (in form satisfactory to the holders of at least a majority of the outstanding shares of Series A Preferred Stock voting together as one class) executed and mailed or delivered to each holder of shares of Series A Preferred Stock at the last address of such holder appearing on the books of the Company, the obligation to deliver to such holder such shares of stock, securities or assets as, in accordance with the foregoing provisions, such holder may be entitled to receive.

4F. Notice of Adjustment. Upon any adjustment of the Series A-1 Conversion Price or Series A-2 Conversion Price, then, and in each such case, the Company shall give written notice thereof by first class mail, postage prepaid, addressed to each holder of shares of Series A-1 Preferred Stock or Series A-2 Preferred Stock, as applicable, at the address of such holder as shown on the books of the Company, which notice shall state the Conversion Price resulting from such adjustment, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

4G. Other Notices. In case at any time:

(1) the Company shall declare any dividend upon its Common Stock payable in cash or stock or make any other distribution to the holders of its Common Stock;

(2) the Company shall offer for subscription pro rata to the holders of its Common Stock any additional shares of such stock of any class or other rights;

(3) there shall be any capital reorganization or reclassification of the capital stock of the Company, or a consolidation or merger of the Company with, or a sale of all or substantially all its assets to, another company; or



(4) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Company;

then, in any one or more of said cases, the Company shall give, by first class mail, postage prepaid, addressed to each holder of any shares of Series A Preferred Stock at the address of such holder as shown on the books of the Company, (a) at least 15 days' prior written notice of the date on which the books of the Company shall close or a record shall be taken for such dividend, distribution or subscription rights or for determining rights to vote in respect of any such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, and (b) in the case of any such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, at least 15 days' prior written notice of the date when the same shall take place. Such notice in accordance with the foregoing clause (a) shall also specify, in the case of any such dividend, distribution or subscription rights, the date on which the holders of Common Stock shall be entitled thereto, and such notice in accordance with the foregoing clause (b) shall also specify the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, as the case may be.

4H. Mandatory Conversion. The Board of Directors of the Company shall have the right at any time to convert each share of Series A Preferred Stock into Common Stock upon no less than 30 days prior written notice to holders of Series A Preferred Stock. In addition, (A) the Board of Directors of the Company shall convert each share of Series A-1 Preferred Stock into Common Stock upon receipt of the written notice of holders of a majority of the then-outstanding shares of Series A-1 Preferred Stock of their election to cause an automatic conversion pursuant to this subparagraph 4H, and (B) the Board of Directors of the Company shall convert each share of Series A-2 Preferred Stock into Common Stock upon receipt of the written notice of holders of a majority of the then-outstanding shares of Series A-2 Preferred Stock of their election to cause an automatic conversion pursuant to this subparagraph 4H. Any such conversion shall be effected in accordance with the provisions of subparagraphs 4B and 4C hereof, and any Series A Preferred Stock converted pursuant to this paragraph shall be converted into a number of shares of Common Stock equal to the quotient obtained by dividing (i) the Liquidation Preference per share of Series A Preferred Stock multiplied by 1.08, by (ii) the applicable Conversion Price.

4I. Stock to be Reserved.

(1) The Company will at all times reserve and keep available out of its authorized but unissued Common Stock, solely for the purpose of issuance upon the conversion of the Series A Preferred Stock as herein provided, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding shares of Series A Preferred Stock. All shares of Common Stock which shall be so issued shall be duly and validly issued and fully paid and nonassessable and free from all liens, duties and charges arising out of or by reason of the issue thereof (including, without limitation, in respect of taxes) and, without limiting the generality of the foregoing, the Company covenants that it will from time to time take all such action as may be requisite to assure that the par value per share of the Common Stock is at all times equal to or less than the effective Conversion Price. The Company will take all such action within its control as may be necessary on its part to assure that all such shares of Common Stock may be so issued without violation of any applicable law or regulation, or of any requirements of any national securities exchange upon which the Common Stock of the Company may be listed. The Company will not take any action which results in any adjustment of the Conversion Price if after such action the total number of shares of Common Stock issued and outstanding and thereafter issuable upon exercise of all options and conversion of Convertible Securities, including upon conversion of the Series A Preferred Stock, would exceed the total number of shares of such class of Common Stock then authorized by the Company's Certificate of Incorporation.

(2) The Company will at all times reserve and keep available out of its authorized but unissued Series A Preferred Stock, a sufficient number of shares solely for the purpose of satisfying the Company's obligations to issue PIK Shares as herein provided. All shares of Series A Preferred Stock which shall be so issued shall be duly and validly issued and fully paid and nonassessable and free from all liens, duties and charges arising out of or by reason of the issue thereof (including, without limitation, in respect of taxes).

4J. No Reissuance of Series A Preferred Stock. Shares of Series A Preferred Stock that are converted into shares of Common Stock as provided herein shall not be reissued.

4K. Issue Tax. The issuance of certificates for shares of Common Stock upon conversion of the Series A Preferred Stock shall be made without charge to the holders thereof for any issuance tax, stamp tax, transfer tax, duty or charge in respect thereof, provided that the Company shall not be required to pay any tax, duty or charge which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of the holder of the Series A Preferred Stock which is being converted.

4L. Closing of Books. The Company will at no time close its transfer books against the transfer of any Series A Preferred Stock or of any shares of Common Stock issued or issuable upon the conversion of any shares of Series A Preferred Stock in any manner which interferes with the timely conversion of such Series A Preferred Stock; provided, however, nothing herein shall be construed to prevent the Company from setting record dates for the holders of its securities.

4M. Limitations on Conversions.

(1) Beneficial Ownership. Unless waived by a holder of Series A Preferred Stock upon no less than sixty one (61) days prior written notice to the Company, the Company shall not effect any conversion of the Series A Preferred Stock pursuant to this Section 4 to the extent that after giving effect to such conversion such holder (together with such holder's affiliates) would beneficially own in excess of 4.99% of the number of shares of Common Stock outstanding immediately after giving effect to such conversion. Even if such holder waives the limitation set forth in the preceding sentence, the Company shall in no event effect any conversion under this Section 4, and such holder shall not have the right to convert Series A Preferred Stock pursuant to this Section 4, to the extent that after giving effect to such conversion, such holder (together with such holder's affiliates) would beneficially own in excess of 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to such conversion. For purposes of the foregoing sentences, the number of shares of Common Stock beneficially owned by a holder of Series A Preferred Stock and its affiliates shall include the number of shares of Common Stock issuable upon conversion of the Series A Preferred Stock with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (A) conversion of the remaining Series A Preferred Stock owned by such holder or any of its affiliates and (B) conversion of the unexercised or nonconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by such holder or any of its affiliates. Except as set forth in the preceding sentence, for purposes of this Section 4(M)(1), beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended. For purposes of this Section 4(M)(1), in determining the number of outstanding shares of Common Stock, the holders of Series A Preferred Stock may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Form 10-Q or Form 10-K, (y) a more recent public announcement by the Company or (z) any other notice by the Company or the Company's transfer agent setting forth the number of shares of Common Stock outstanding. For any reason at any time, upon the written or oral request of a holder of Series A Preferred Stock, the Company shall within two (2) business days confirm orally and in writing to such holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including the Series A Preferred Stock, by such holder or its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. Notwithstanding the foregoing, the limitations of this paragraph shall not apply to Carlyle Liquid, LLC, Carlyle Holdings, LLC, Abdi Mahamedi, Atlantic Realty, and Ricardo Salas.

(2) [Reserved]

4N. Company's Failure to Timely Convert. If the Company shall fail to issue a certificate to a holder of Series A Preferred Stock or credit such holder's balance account with the Depository Trust Company ("DTC") through its Deposit/Withdrawal At Custodian system for the number of shares of Common Stock to which such holder is entitled upon conversion of any Series A Preferred Stock on or prior to the date which is five (5) business days after the date that such holder exercises its conversion rights pursuant to this Section 4 (a "Conversion Failure"), then (A) the Company shall pay liquidated damages to such holder for each day of such Conversion Failure in an amount equal to 1.0% of the product of (I) the sum of the number of shares of Common Stock not issued to such holder on or prior to the Share Delivery Date and to which the such holder is entitled, and (II) the Closing Sale Price of the Common Stock on the Share Delivery Date and (B) such holder, upon written notice to the Company, may void its notice of conversion (in the form attached to the Series A Preferred Stock) with respect to, and have returned any Series A Preferred Stock that has not been converted pursuant to such notice of conversion; provided that the voiding of such notice of conversion shall not affect the Company's obligations to make any payments of dividends pursuant to Section 2 hereof which have accrued prior to the date of such notice pursuant to this Section 4(N) or otherwise. In addition to the foregoing, if within three (3) Trading Days after the Company's receipt of such notice of conversion, the Company shall fail to issue and deliver a certificate to such holder or credit such holder's balance account with DTC for the number of shares of Common Stock to which such holder is entitled upon such holder's conversion of any Series A Preferred Stock, and if on or after such Trading Day such holder purchases (in an open market transaction or otherwise) Common Stock to deliver in satisfaction of a sale by such holder of Common Stock issuable upon such conversion that such holder anticipated receiving from the Company (a "Buy-In"), then the Company shall, within five (5) business days after such holder's request and in such holder's discretion, either (i) pay cash to such holder in an amount equal to such holder's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (the "Buy-In Price"), at which point the Company's obligation to deliver such certificate (and to issue such Common Stock) shall terminate, or (ii) promptly honor its obligation to deliver to such holder a certificate or certificates representing such Common Stock and pay cash to such holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of shares of Common Stock, times (B) the Closing Bid Price on the date that such holder exercises its conversion rights pursuant to this Section 4.

5. Right to Participate in Future Issuances.

In case the Company proposes at any time to issue or sell any Common Stock or any Options or Convertible Securities other than Excluded Securities and other than securities issued in a public offering (the “Offered Securities”), the Company shall, no later than ten (10) days prior to the consummation of such transaction (a “Preemptive Rights Transaction”), give notice in writing (the “Preemptive Rights Offer Notice”) of such Preemptive Rights Transaction to each Series A Preferred Stock holder (each, a “Preemptive Rights Holder”). The Preemptive Rights Offer Notice shall describe the proposed Preemptive Rights Transaction, identify the proposed purchaser, and contain an offer (the “Preemptive Rights Offer”) to sell to each Preemptive Rights Holder, at the same consideration to be paid by the proposed purchasers, that number of Offered Securities required to maintain such Preemptive Rights Holder’s ownership percentage of the fully-diluted Common Stock in effect as of the date of the Preemptive Rights Offer Notice (the “Maximum Offer Amount”); provided, however, that in calculating such ownership percentage, only the Preemptive Rights Holder’s Series A Preferred Stock (and not any outstanding shares of Common Stock or Options or other Convertible Securities then held by the Preemptive Rights Holder) will be included when the percentage interest is calculated. A Preemptive Rights Holder may subscribe for all or a portion of its Maximum Offer Amount on or prior to the 30<sup>th</sup> day following the date of sale of the Offered Securities to the initial purchasers. Any of the Offered Securities not subscribed for by a Preemptive Rights Holder shall be offered to the other Preemptive Rights Holders pursuant to a written notice from the Company on a pro rata basis for a period of 30 days. When the Offered Securities are accepted in the manner set forth in this paragraph 5, the Company shall, as promptly as practicable but no later than twenty (20) days after acceptance by a Preemptive Rights Holder of its subscription portion of the Maximum Offer Amount, issue certificates representing the applicable number of Offered Securities (free of all liens and encumbrances) to such holder against delivery by such holder of the consideration payable therefor. Any notice required to be given by Company pursuant to this paragraph 5 shall (i) specify the name of the proposed purchaser, the number of shares to be issued, the amount and type of consideration to be received therefor, and the other material terms on which the Company proposes to issue the shares, and (ii) contain an offer to sell to those holders permitted to participate in such offer all of such shares at the same price per share and for consideration consisting of (x) cash equal to the amount of cash proposed to be paid by the proposed purchaser and (y) if any of the consideration to be paid by the proposed purchaser is non-cash consideration, either the same non-cash consideration or, at the election of the particular holder, cash having an equivalent value to the non-cash consideration proposed to be paid by the proposed purchaser. The determination of equivalent value required by the preceding sentence shall be made by an Independent Appraiser, it being understood that the fees and expenses of such Independent Appraiser shall be paid by the Company. Notwithstanding anything to contrary herein, before the Company sends a Preemptive Rights Offer Notice to a Preemptive Rights Holder, the Company shall send written notification to such Preemptive Rights Holder that the Company intends to send a Preemptive Rights Offer Notice to such Preemptive Rights Holder (such notice, the “Pre-Notice”). If the Company does not receive, within three (3) business days from the date of the Pre-Notice, a written notice from such Preemptive Rights Holder stating that he, she or it does not wish to receive material non-public information relating to the Company, then the Company shall send a Preemptive Rights Offer Notice to such Preemptive Rights Holder and such Preemptive Rights Holder shall not have the rights set forth in this paragraph.

6. Voting - Series A Preferred Stock. In addition to any class voting rights provided by law and the Certificate of Incorporation, the holders of Series A Preferred Stock shall have the right to vote together with the holders of Common Stock as a single class on any matter on which the holders of Common Stock are entitled to vote, at any annual or special meeting of the stockholders and not as a separate class, and may act by written consent in the same manner as the holders of Common Stock; provided, however, the voting rights of the holders of Series A Preferred Stock shall be subject to any limitations or additional rights that are set forth in the Company's Certificate of Incorporation, as amended through the date of this Amended Certificate of Designation. With respect to the voting rights of the holders of the Series A Preferred Stock pursuant to the preceding sentence, each holder of Series A Preferred Stock shall be entitled to one vote for each share of Common Stock that would be issuable to such holder upon the conversion of all the shares of Series A Preferred Stock held by such holder on the record date for the determination of shareholders entitled to vote at such meeting or the effective date of such written consent (after taking into account the conversion limitation set forth in Section 4M(1) above), and shall have voting rights and powers equal to the voting rights and powers of the Common Stock, and shall be entitled to notice of any stockholders' meeting in accordance with the Bylaws of the Company.

7. Further Restrictions. As long as at least 25% of the number of shares of Series A Preferred Stock issued on the Original Issuance Date are outstanding, and in addition to any other vote of the holders of Series A Preferred Stock required by law or by the Certificate of Incorporation, the prior consent of the holders of at least two-thirds of the outstanding Series A Preferred Stock shall be required for the Company to take any action that: (i) alters or changes the rights, preferences or privileges of the Series A Preferred Stock, (ii) creates (by reclassification or otherwise) any new class or series of shares or securities having rights, preferences or privileges senior to, or on a parity with, the Series A Preferred Stock, (iii) results in the redemption of any shares of Common Stock or any other shares or securities on a parity with or junior to the Series A Preferred Stock (other than pursuant to equity incentive agreements with service providers giving the Company the right to repurchase shares upon the termination of services), (iv) results in any merger, other corporate reorganization, sale of control, or any transaction in which all or substantially all of the assets of the Company are sold, (v) amends or waives any provision of the Company's Certificate of Incorporation or Bylaws relative to the Series A Preferred Stock, (vi) increases the authorized size of the Company's Board of Directors, (vii) results in the payment or declaration of any dividend on any shares of Common Stock or any other shares or securities junior to the Series A Preferred Stock, (viii) results in a confession of judgment against the Company, or settle or compromise by or against the Company (provided that no such consent shall be required for matters involving less than \$50,000.00), (ix) results in any filing by the Company for bankruptcy or receivership, (x) results in any guaranty of any debt of a third party other than a direct or indirect wholly owned subsidiary of the Company; (xi) results in the making of any material cash investments in the securities of another entity other than in the ordinary course of business or other than investments in wholly owned subsidiaries of the Company, or (xii) results in the Company entering into a materially new line of businesses not related to the Company's current line of business.

8. No Waiver. Except as otherwise modified or provided for herein, the holders of Series A Preferred Stock shall also be entitled to, and shall not be deemed to have waived, any other applicable rights granted to such holders under the applicable provisions of the Delaware General Corporation Law.

9. No Impairment. The Company will not, through any reorganization, transfer of assets, merger, dissolution, issue or sale of securities on any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company but will at all times in good faith assist in the carrying out of all the provisions of Article Four and in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights and liquidation preferences granted hereunder of the holders of the Series A Preferred Stock against impairment.”

IN WITNESS WHEREOF, this Amended and Restated Certificate of Designation has been executed by the Company by a duly authorized executive officer as of this 2nd day of November, 2010.

LIQUIDMETAL TECHNOLOGIES, INC.

By: /s/ Tony Chung

Name: Tony Chung

Title: Chief Financial Officer

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## EMPLOYMENT AGREEMENT

**THIS EMPLOYMENT AGREEMENT** (this "Agreement") is made and entered into effective as of **August 3, 2010** (the "Effective Date"), by and between **LIQUIDMETAL TECHNOLOGIES, INC.**, a Delaware corporation (the "Company"), **THOMAS STEIPP**, an individual residing in the State of California (the "Employee").

### RECITALS

**WHEREAS**, the Employee desires to be employed by the Company upon the terms and conditions set forth in this Agreement; and

**WHEREAS**, the Company desires to assure itself of the Employee's continued employment in the capacities set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing recitals and for other good and valuable consideration, the parties hereto covenant and agree as follows:

1. **Employment.** The Company hereby employs Employee, and the Employee hereby accepts such employment, upon the terms and conditions set forth in this Agreement.

2. **Term.** Subject to the terms and conditions of this Agreement, including, but not limited to, the provisions for termination set forth in Section 5 hereof, the employment of the Employee under this Agreement shall commence on the Effective Date and shall continue through the close of business on **August 3, 2015** (the "Initial Term"). Upon the expiration of the Initial Term, the Employee's employment with the Company will continue on an "at-will" basis and may be terminated by Employee or the Company for any reason and at any time, provided that the terminating party shall provide at least ninety (90) days prior written notice of the termination to the other party (unless the termination is With Cause as defined in this Agreement, in which case the Employee's employment may be terminated immediately).

3. **Duties.** Employee will serve as **PRESIDENT and CHIEF EXECUTIVE OFFICER** of the Company. The Employee will devote his full business time, attention, skill, and energy to the business of the Company and will be a full-time employee of the Company. Employee will use the Employee's best efforts to promote the success of the Company's business and will cooperate fully with the Board of Directors in the advancement of the best interests of the Company. Furthermore, the Employee shall assume and competently perform such reasonable responsibilities and duties as may be assigned to the Employee from time to time by the Board of Directors and Chairman of the Board of the Company or their designee. To the extent that the Company shall have any parent company, subsidiaries, affiliated corporations, partnerships, or joint ventures (collectively "Related Entities"), the Employee shall perform such duties to promote these entities and to promote and protect their respective interests to the same extent as the interests of the Company without additional compensation. At all times, the Employee agrees that the Employee has read and will abide by, and prospectively will read and abide by, any employee handbook, policy, or practice that the Company or Related Entities has or hereafter adopts with respect to its employees generally..

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4. **Compensation.**

(a) **Annual Base Salary.** As compensation for Employee's services and in consideration for the Employee's covenants contained in this Agreement, the Company shall pay the Employee an annual base salary of \$300,000.00, which salary shall be paid in accordance with the Company's regular payroll schedule and will be subject to applicable tax and other legally required withholdings. The annual compensation may be adjusted upward (but not downward) in the sole discretion of the Board of Directors. For purposes of this Agreement, the term "**Salary Year**" means the one year, 365-day period (or 366 day period for a leap year) that begins on the Effective Date and each successive one year period thereafter. The base salary established by this paragraph will be effective as of August 3, 2010, with any retroactive salary amount being payable by the Company within a reasonable period of time following the execution of this Agreement.

(b) **Bonuses.** In addition to the Employee's annual base compensation, during the term of the Employee's employment hereunder, the Employee shall be entitled to only such bonuses or additional compensation as may be granted to the Employee by the Board of Directors or Chairman of the Board of the Company, in their sole discretion.

(c) **Reimbursement of Expenses.** The Employee shall be reimbursed for all reasonable and customary travel and other business expenses incurred by Employee in the performance of Employee's duties hereunder, provided that such reimbursement shall be subject to, and in accordance with, any expense reimbursement policies and/or expense documentation requirements of the Company that may be in effect from time to time

(d) **Stock Grant.** In addition to the foregoing, in consideration of the execution of this Agreement by the Employee, the Company shall, on the date hereof, grant to the employee 6,000,000 shares of the common stock of the Company in accordance with a restricted stock agreement in the form set forth as **Exhibit A** hereto.

(e) **Other Benefits.** During the term of the Employee's employment hereunder, the Employee shall be eligible to participate in such pension, life insurance, health insurance, disability insurance and other benefits plans, if any, which the Company may from time to time make available to similar-level employees.

(f) **Vacation.** The Employee shall be entitled to **4 Weeks** paid vacation during each Salary Year during the term of the Employee's employment hereunder. Vacation shall be taken at such times and with such notice so as to not disrupt or interfere with the business of the Company. Unused vacation from a particular Salary Year will not be paid in cash but will carry over to succeeding Salary Years up to a maximum of **3 Weeks**, and no more than 3 weeks of carried-over vacation may be taken during any Salary Year.

5. **Termination.**

(a) **Death.** The Employee's employment under this Agreement shall terminate immediately upon Employee's death. In the event of a termination pursuant to this Section 5(a), the Employee's estate shall be entitled to receive any unpaid base salary owing to Employee up through and including the date of the Employee's death.

(b) **Disability.** If, during the term of the Employee's employment hereunder, the Employee becomes physically or mentally disabled in the determination of a physician appointed or selected by the Company, or, if due to any physical or mental condition, the Employee becomes unable for a period of more than sixty (60) days during any six-month period to perform Employee's duties hereunder on substantially a full-time basis as determined by a physician selected by the Company, the Company may, at its option, terminate the Employee's employment upon not less than thirty (30) days written notice. In the event of a termination pursuant to this Section 5(b), the Employee shall be entitled to receive any unpaid base salary owing to Employee up through and including the effective date of termination.

(c) **Termination By Company Without Cause.** In addition to the other termination provisions of this Agreement, the Company may terminate the Employee's employment at any time without cause (a "Termination Without Cause"). In the event of a Termination Without Cause, the Employee shall continue to receive the Employee's base salary (as then in effect) during the twelve (12) month period immediately following the effective date of the Termination Without Cause or, if shorter, through the last day of the Initial Term (the "Severance Period"). In addition to the severance pay described in the preceding sentence, the Employee shall continue, during the Severance Period, to receive all employee health and welfare benefits to which Employee was entitled immediately prior to the Termination of Cause, but only to the extent that the applicable benefit plan permits such continuation of benefits. Employee agrees and acknowledges, however, that Employee will forfeit the right to receive base salary and benefits during the Severance Period immediately upon the Employee's breach of any covenant set forth in Section 6 of this Agreement. The Employee will also forfeit the right to salary and benefits during the Severance Period upon accepting employment with another employer with comparable salary, and benefits hereunder shall be forfeited and shall cease upon the Employee becoming eligible for benefits from the Employee's new employer. Notwithstanding the foregoing, the termination of the Employee's employment pursuant to the second sentence of Section 2 of this Agreement shall not constitute a Termination Without Cause and shall not give rise to any severance payment or other benefits pursuant to this Section 5(c). The Employee's right to receive any severance payments pursuant to this Section 5(c) is conditioned upon the Employee signing a general release in form and substance satisfactory to the Company under which the Employee releases the Company and its affiliates, together with their respective officers, directors, shareholders, employees, agents and successors and assigns, from any and all claims Employee may have against them as of the date of such release (whether known or unknown), other than claims arising out of this Agreement.

(d) Termination By Company With Cause. The Company may terminate the Employee's employment at any time with Cause. As used in this Agreement, "Cause" shall mean the following: (1) the Employee's failure or inability to perform Employee's duties under this Agreement to the reasonable satisfaction of the Board of Directors of the Company after being given written notice of the Employee's deficiencies and having a period of at least ten (10) days to cure such deficiencies to the reasonable satisfaction of the Board of Directors; (2) dishonesty or other serious misconduct, (3) the commission of an unlawful act material to Employee's employment, (4) a material violation of the Company's policies or practices which reasonably justifies immediate termination; (5) committing, pleading guilty, nolo contendere or no contest (or their equivalent) to, entering into a pretrial intervention or diversion program regarding, or conviction of, a felony or any crime or act involving moral turpitude, fraud, dishonesty, or misrepresentation; (6) the commission by the Employee of any act which could reasonably affect or impact to a material degree the interests of the Company or Related Entities or in some manner injure the reputation, business, or business relationships of the Company or Related Entities; (7) the Employee's inability to perform an essential function of Employee's position; (8) any material breach by Employee of this Agreement which, if unintentional and capable of being cured, is not cured within ten (10) of written notice of such breach by the Company to Employee. The Company may terminate this Agreement for Cause at any time without notice. In the event of a termination for Cause, the Company shall be relieved of all its obligations to the Employee provided for by this Agreement as of the effective date of termination, and all payments to the Employee hereunder shall immediately cease and terminate as of such date, except that Employee shall be entitled to the annual base salary hereunder up to and including the effective date of termination, provided, however, that the Employee's obligations under Sections 6 and 7 of this Agreement shall survive such a Termination for Cause, and any other liabilities or obligations which have accrued and are owed by the Employee to the Company shall not be extinguished or released by such termination.

(e) Termination by Employee Upon Change in Control. In the event that a Change in Control (as defined below) occurs and Employee terminates his own employment with the Company by delivering written notice of termination to the Company within thirty (30) days after such Change in Control (an "Employee Termination Notice"), then Employee shall be entitled to lump-sum severance compensation in an amount equal to the amount of base salary to which Employee would have been entitled for the remainder of the Initial Term at the base salary rate being paid to Employee as of the date of the Change in Control (the "Change in Control Compensation"). The Change in Control Compensation shall be payable on the last pay day of the Company of the month in which the Change in Control occurs, but no earlier than fifteen (15) days after which Employee delivers the Employee Termination Notice to the Company. In addition to the Change in Control Compensation, the Employee shall, to the extent permitted by any applicable benefit plan, continue to receive, from the date of termination through the end of the Initial Term, all employee health and welfare benefits that Employee would have received during such period in the absence of such termination. Employee agrees and acknowledges, however, that Employee will forfeit the right to receive Change in Control Compensation and benefits during such period immediately upon the Employee's breach of any covenant set forth in Section 6 of this Agreement. For purposes hereof, the term "Change in Control" means any of the following events: (i) any person, entity, or "group" (as described in Rule 13d-5(b)(1) promulgated under the Securities Exchange Act of 1934, as amended), other than an affiliate or subsidiary of the Company or an employee benefit plan established or maintained by the Company, a subsidiary of the Company, or any of their respective affiliates, acquires more than 50.0% of the combined voting power of the Company's then outstanding securities; (ii) the consummation of (A) a merger or consolidation of the Company with or into another corporation unless, after giving effect to such transaction, the stockholders of the Company immediately prior to such transaction own more than 50% of the aggregate voting power of the Company or the successor entity of such transaction, or (B) a sale or disposition of all or substantially all of the Company's assets; (iv) if during any period of two (2) consecutive years, individuals who at the beginning of such period constitute the board of directors of the Company (the "Continuing Directors") cease for any reason to constitute at least a majority thereof; provided that any individual whose election or nomination for election as a member of the board of directors of the Company was approved by a vote of at least a majority of the Continuing Directors then in office shall be considered a Continuing Director. In the case of any ambiguity regarding the interpretation of the foregoing definition of "Change in Control", such question shall be resolved in good faith by the board of directors of the Company. The Employee's right to receive any compensation pursuant to this Section 5(e) is conditioned upon the Employee signing (on or before such compensation is due) a general release in form and substance satisfactory to the Company under which the Employee releases the Company and its affiliates, together with their respective officers, directors, shareholders, employees, agents and successors and assigns, from any and all claims Employee may have against them as of the date of such release (whether known or unknown), other than claims arising out of this Agreement.

(f) Special Termination. In addition to the foregoing, in the event that the Company does not within ninety (90) days after the date of this Agreement receive from Crucible Intellectual Property, LLC, a Delaware limited liability company and special-purpose wholly owned subsidiary of the Company (“Crucible”), the entire maximum amount of the second payment due to Crucible by Apple Inc. (“Apple”) pursuant to the Exclusive License Agreement of even date herewith between Crucible and Apple, the Company may at any time thereafter terminate this Agreement upon written notice to Employee. In the event of such a termination, the Company shall be relieved of all its obligations to the Employee provided for by this Agreement as of the effective date of termination, and all payments to the Employee hereunder shall immediately cease and terminate as of such date, except that Employee shall be entitled to the annual base salary hereunder up to and including the effective date of termination, provided, however, that the Employee’s obligations under Sections 6 and 7 of this Agreement shall survive such a termination.

6. **Nonsolicitation and Nondisclosure Covenants.**

(a) **Rationale for Restrictions.** Employee acknowledges that Employee's services hereunder are of a special, unique, and extraordinary character, and Employee's position with the Company places Employee in a position of confidence and trust with customers, suppliers, and other persons and entities with whom the Company and its Related Entities have a business relationship. The Employee further acknowledges that the rendering of services under this Agreement will likely require the disclosure to Employee of Confidential Information (as defined below) including Trade Secrets of the Company relating to the Company and/or Related Entities. As a consequence, the Employee agrees that it is reasonable and necessary for the protection of the goodwill and legitimate business interests of the Company and Related Entities that the Employee make the covenants contained in this Section 6, that such covenants are a material inducement for the Company to employ the Employee and to enter into this Agreement, and that the covenants are given as an integral part of and incident to this Agreement.

(b) **Nonsolicitation Covenants.** As used herein, the term "**Restrictive Period**" means the time period commencing on the Effective Date of this Agreement and ending on the second (2<sup>nd</sup>) anniversary of the date on which the Employee's employment by the Company (or any Related Entity) expires or is terminated for any reason, including both a termination by the Company for Cause and Not for Cause. In addition, the term "**Covered Business**" means any business which is the same as, or similar to, any business conducted by the Company or any of the Related Entities at any time during the Restrictive Period. The Employee agrees that the Employee will not engage in any of the following acts anywhere in the world during the Restrictive Period:

- (i) directly or indirectly assist, promote or encourage any existing or potential employees, customers, clients, or vendors of the Company or any Related Entity, as well as any other parties which have a business relationship with the Company or a Related Entity, to terminate, discontinue, or reduce the extent of their relationship with the Company or a Related Entity;
- (ii) directly or indirectly solicit business of the same or similar type as a Covered Business, from any person or entity known by the Employee to be a customer or client of the Company, whether or not the Employee had contact with such person or entity during the Employee's employment with the Company;
- (iii) disparage the Company, any Related Entities, and/or any shareholder, director, officer, employee, or agent of the Company or any Related Entity; and/or
- (iv) engage in any practice the purpose of which is to evade the provisions of this Section 6.

Employee acknowledges that Employee's services hereunder are of a special, unique, and extraordinary character, and Employee's position with the Company places Employee in a position of confidence and trust with customers, suppliers, and other persons and entities with whom the Company and its Related Entities have a business relationship. The Employee further acknowledges that the rendering of services under this Agreement will likely require the disclosure to Employee of Confidential Information (as defined below) and Trade Secrets (as defined below) of the Company relating to the Company and/or Related Entities. As a consequence, the Employee agrees that it is reasonable and necessary for the protection of the goodwill and legitimate business interests of the Company and Related Entities that the Employee make the covenants contained in this Section 6, that such covenants are a material inducement for the Company to employ the Employee and to enter into this Agreement, and that the covenants are given as an integral part of and incident to this Agreement.

(c) Disclosure of Confidential Information. The Employee acknowledges that the inventions, innovations, software, Trade Secrets, business plans, financial strategies, finances, and all other confidential or proprietary information with respect to the business and operations of the Company and Related Entities are valuable, special, and unique assets of the Company. Accordingly, the Employee agrees not to, at any time whatsoever either during or after the Employee's term of employment with the Company, disclose, directly or indirectly, to any person or entity, or use or authorize any person or entity to use, any confidential or proprietary information with respect to the Company or Related Entities without the prior written consent of the Company, including, without limitation, information as to the financial condition, results of operations, identities of clients or prospective clients, products under development, acquisition strategies or acquisitions under consideration, pricing or cost information, marketing strategies, passwords or codes or any other information relating to the Company or any of the Related Entities which could be reasonably regarded as confidential (collectively referred to as "Confidential Information"). However, the term "Confidential Information" does not include any information which is or shall become generally available to the public other than as a result of disclosure by the Employee or by any person or entity which the Employee knows (or which the Employee reasonably should know) has a duty of confidentiality to the Company or a Related Entity with respect to such information. In addition to the foregoing, Company will be fully entitled to all of the protections and benefits afforded by the California Uniform Trade Secrets Acts and any other applicable law. The term "Trade Secret" shall mean any information, including a formula, pattern, compilation, program, device, method technique, or process that derives independent economic value, actual or potential, from being not generally known to, and not being readily ascertainable by proper means by, other persons who can derive economic value from its disclosure or use, including but not limited to the patented information and processes as well as the unpatented information and processes comprising, underlying, arising from, and associated with Liquidmetal alloys.

(d) Prevention of Premature Disclosure of Confidential Information and Trade Secrets. The Employee agrees and acknowledges that, because the success of the Company is heavily dependent upon maintaining the secrecy of the Company's Confidential Information and Trade Secrets and preventing the premature public disclosure of the Company's proprietary information and technology including its Confidential Information and Trade Secrets, the Employee agrees to use the Employee's best efforts and his or her highest degree of care, diligence, and prudence to ensure that no Confidential Information or Trade Secret prematurely leaks or otherwise prematurely makes its way into the public domain or any public forum, including, without limitation, into any trade publications, internet chat rooms, or other similar forums. In the event that the Employee becomes aware of any premature leak of Confidential Information or Trade Secret or becomes aware of any circumstances creating a risk of such a leak, the Employee shall immediately inform the Board of Directors, the Chief Executive Officer, or the Employee's supervisor of such leak or of such circumstances.

(e) **Removal and Return of Proprietary Items.** The Employee will not remove from the Company's premises (except to the extent such removal is for purposes of the performance of the Employee's duties at home or while traveling, and under such conditions and restrictions as are specifically authorized and/or required by the Company) or transmit by any means, electronic or otherwise, any document, record, notebook, plan, model, component, device, computer software or code, or Confidential Information or Trade Secret whether embodied in a disk or in any other form, including electronic form (collectively, the "**Proprietary Items**"). The Employee recognizes that, as between the Company and the Employee, all of the Proprietary Items, whether or not developed by the Employee, are the exclusive property of the Company. Upon termination of Employee's employment with the Company by either party (regardless of the reason for termination), or upon the request of the Company during the term of employment, the Employee will return to the Company all of the Proprietary Items in the Employee's possession or subject to the Employee's control, and the Employee shall not retain any copies, abstracts, sketches, or other physical embodiment of any of the Proprietary Items, Confidential Information, Trade Secret or any part thereof.

(f) **Enforcement and Remedies.** In the event of any breach of any of the covenants set forth in this Section 6, the Employee recognizes that the remedies at law will be inadequate and that in addition to any relief at law which may be available to the Company for such violation or breach and regardless of any other provision contained in this Agreement, the Company shall be entitled to equitable remedies (including an injunction) and such other relief as a court may grant after considering the intent of this Section 6. Additionally, the period of time applicable to any covenant set forth in this Section 6 will be extended by the duration of any violation by Employee of such covenant. In the event a court of competent jurisdiction determines that any of the covenants set forth in this Section 6 are excessively broad as to duration, geographic scope, prohibited activities or otherwise, the parties agree that this covenant shall be reduced or curtailed to the extent, but only to the extent, necessary to render it enforceable.

7. **Employee Inventions.**

(a) Employee agrees that any inventions, ideas, original works of authorship or other work product in whole or in part conceived or made by Employee which are made through the use of any of the Confidential Information or any of the Company's equipment, facilities, supplies, trade secrets or time, or which relate to the Company's business or the Company's actual or demonstrably anticipated research and development, or which result from any work performed by Employee for the Company, along with any rights in or to any of the foregoing under copyright, patent, trade secret, trademark, or other law, shall belong exclusively to the Company and shall be deemed part of the Confidential Information for purposes of this Agreement whether or not fixed in a tangible medium of expression. Without limiting the foregoing, Employee agrees that any such original works of authorship shall be deemed to be "works made for hire" and that the Company shall be deemed the author thereof under the U. S. Copyright Act (Title 17 of the U. S. Code), provided that in the event and to the extent such works are determined not to constitute "works made for hire" as a matter of law or that there are any rights that do not accrue to the Company as a work made for hire, Employee hereby irrevocably assigns and transfers to the Company all right, title and interest in and to such works, including but not limited to copyrights and other intellectual property rights. This Agreement shall be construed in accordance with the provisions of Section 2870 of the California Labor Code (a copy of which is attached as **Exhibit A** hereto) relating to inventions made by Employee, and accordingly this Agreement is not intended and shall not be interpreted to assign to or vest in the Company any of Employee's rights in any inventions other than those described in the first sentence of this Section 7(a).

(b) At all times during Employee's employment by the Company, Employee will maintain a complete and detailed current written record of all ideas, concepts, improvements, discoveries or inventions, of any nature ("Inventions"), whether patentable or not, created or made in whole or part by Employee, either solely or jointly with others, and Employee will promptly disclose any such Inventions to the Company, in writing. Employee further agrees that all such written records shall be and remain the sole and exclusive property of the Company, and Employee shall make such written records available to the Company at any time upon request, for review, inspection or copying by the Company, and shall deliver all copies of such records to the Company upon termination of Employee's employment, for any reason.

(c) With respect to Inventions made or conceived of in whole or part by Employee, either solely or jointly with others, whether during Employee's employment by the Company or after termination of such employment if developed using, applying or adapting, in any way, the Company's equipment, supplies, facilities, Confidential Information or trade secret information, or during Employee's working hours, or such Invention relates to the Company's business, or actual or demonstrably anticipated research or development, or results from any work done in whole or part by Employee, either solely or jointly with others, for the Company, or is based on or related to programs, processes, Inventions or information learned by Employee during such employment:

- (i) Employee shall inform the Company promptly and fully of such Inventions by a written report, setting forth in detail the procedures employed and the results achieved.
- (ii) Employee hereby expressly transfers and assigns to the Company all of Employee's right, title and interest in and to such Inventions; and to Applications for U.S. and/or foreign letters patent and/or copyrights as well as any and all continuations, continuations-in-part, and divisions thereof, and to U.S. and/or foreign letters patent and/or copyrights issued thereon, as well as any and all reissues, extensions, improvements, or further developments thereof.
- (iii) Employee shall apply, or assist the Company in applying, at the Company's request and expense, for U.S. and/or foreign letters patent and/or copyrights in the Company's name, or otherwise as the Company shall desire. The decision to obtain letters patent and/or copyrights shall reside solely with the Company; however, the decision not to obtain or apply for letters patent and/or copyrights at the time of disclosure or at any time thereafter, shall not be construed as a waiver of any rights hereunder.



(iv) the Company shall also have the perpetual, royalty-free right to use in its business, to license others to use, and to make, use and sell products, processes and/or services derived from any Inventions, discoveries, designs, improvements, concepts, ideas, whether patentable or not, including but not limited to process, methods, formulas, techniques or know-how related thereto, which are not within the scope of Inventions as defined herein, but which are conceived or made in whole or part by Employee, either solely or jointly with others, during regular working hours or with the use of the Company's equipment, supplies, facilities, Confidential Information, trade secret information materials or personnel.

8. **Essential and Independent Covenants.** The Employee's covenants in Sections 6 and 7 of this Agreement are independent covenants, and the existence of any claim by the Employee against the Company under this Agreement or otherwise will not excuse the Employee's breach of any covenant in Section 6 or 7. The covenants of Sections 6 and 7 shall survive the expiration, termination, extinguishment, or lapse of this Agreement under any circumstances, even if this Agreement is terminated by either party, whether for Cause or Not for Cause.

9. **Representations and Warranties by The Employee.** The Employee represents and warrants to the Company that the execution and delivery by the Employee of this Agreement do not, and the performance by the Employee of the Employee's obligations hereunder will not, with or without the giving of notice or the passage of time, or both: (a) violate any judgment, writ, injunction, or order of any court, arbitrator, or governmental agency applicable to the Employee, or (b) conflict with, result in the breach of any provisions of or the termination of, or constitute a default under, any agreement to which the Employee is a party or by which the Employee is or may be bound, including, without limitation, any noncompetition agreement or similar agreement. Employee further represents and warrants that he fully and completely understands this Agreement and that he has engaged in negotiations with the Company and has either consulted with an attorney of his choice or has had ample opportunity to do so and is fully satisfied with the opportunity he has had.

10. **Notices.** For purposes of this Agreement, notices and all other communications provided for herein shall be in writing and shall be deemed to have been duly given when hand-delivered, sent by facsimile transmission (as long as receipt is acknowledged), or mailed by United States certified or registered mail, return receipt requested, postage prepaid, addressed to the address or facsimile number for each party set forth on the signature page hereto, or to such other address or facsimile number as either party may have furnished to the other in writing in accordance herewith, except that a notice of change of address shall be effective only upon receipt.

11. **Miscellaneous.** No provision of this Agreement may be modified or waived unless such waiver or modification is agreed to in writing signed by both of the parties hereto. No waiver by any party hereto of any breach by any other party hereto shall be deemed a waiver of any similar or dissimilar term or condition at the same or at any prior or subsequent time. This Agreement is the entire agreement between the parties hereto with respect to the Employee's employment by the Company, and there are no agreements or representations, oral or otherwise, expressed or implied, with respect to or related to the employment of the Employee which are not set forth in this Agreement. This Agreement shall be binding upon, and inure to the benefit of, the Company, its respective successors and assigns, and the Employee and Employee's heirs, executors, administrators and legal representatives. The duties and covenants of the Employee under this Agreement, being personal, may not be delegated or assigned by the Employee without the prior written consent of the Company, and any attempted delegation or assignment without such prior written consent shall be null and void and without legal effect. The parties agree that if any provision of this Agreement shall under any circumstances be deemed invalid or inoperative, the Agreement shall be construed with the invalid or inoperative provision deleted and the rights and obligations of the parties shall be construed and enforced accordingly. This Agreement may be assigned by the Company without the consent of the Employee, provided, however, that the Employee is given notice of the assignment.

12. **Governing Law; Resolution of Disputes.** The validity, interpretation, construction, and performance of this Agreement shall be governed by the laws of the State of California without regard to principles of choice of law or conflicts of law thereunder. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may be brought against either of the parties in the courts of the State of California, County of Orange, or, if it has or can acquire jurisdiction, in the federal courts located in, Orange County, California, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on either party anywhere in the world. The parties hereto agree that having venue and jurisdiction solely in California is reasonable in that the headquarters for the Company is in Orange County, California and that site for litigation is the most central for such matters. THE PARTIES HEREBY WAIVE A JURY TRIAL IN ANY LITIGATION ARISING UNDER OR RELATING TO THIS AGREEMENT OR THE EMPLOYMENT OF THE EMPLOYEE WITH THE COMPANY. This Agreement shall not be construed against either party but shall be construed without regard to the participation of either party in the drafting of this Agreement or any part thereof.

13. **Counterparts; Facsimile Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be effective upon the execution and delivery by any party hereto of facsimile copies of signature pages hereto duly executed by such party; provided, however, that any party delivering a facsimile signature page covenants and agrees to deliver promptly after the date hereof two (2) original copies to the other party hereto.

14. **Modification By The Court**. In the event that any provision or Section of this Agreement violates any law of the state of California or is for some other reason unenforceable as written in the state of California, the Employee and the Company agree that the unenforceable provision or Section should not cause the entire Agreement to become unenforceable unless it is caused to fail in its essential purpose. In the event that any provision or Section of this Agreement violates any law of the state of California or is for some other reason unenforceable as written in the state of California, the Employee agrees that the provision should be reduced in scope or length or otherwise modified by the Court, if possible under the law, to cause the provision or Section of the Agreement to be legal and enforceable but to still provide to the Company the maximum protection available to it under the law.

[signature(s) on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**LIQUIDMETAL TECHNOLOGIES, INC.**

By: /s/ Abdi Mahamedi

\_\_\_\_\_  
Abdi Mahamedi, Chairman

Liquidmetal Technologies  
30452 Esperanza  
Rancho Santa Margarita, CA  
92688  
Facsimile Number: 949.635.2108

**EMPLOYEE**

By: /s/ Thomas Steipp

\_\_\_\_\_  
Printed Name: Thomas Steipp

Address and Facsimile Number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**

Section 2870 of the California Labor Code provides:

(a) Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either: (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; (2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

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RESTRICTED STOCK AWARD AGREEMENT

THIS RESTRICTED STOCK AWARD AGREEMENT (this "Agreement") is entered into this 3rd day of August, 2010 (the "Grant Date"), by and between LIQUIDMETAL TECHNOLOGIES, INC., a Delaware corporation (the "Company") and THOMAS STEIPP, an individual residing in the State of California (the "Participant").

RECITALS

WHEREAS, the Company is a Delaware corporation with authorized capital stock as follows:

300,000,000 shares of common stock with par value \$0.001 (the "Common Stock"); and  
10,000,000 shares of preferred stock with par value \$0.001

WHEREAS, the Company and the Participant entered into that certain Employment Agreement dated as of August 3, 2010 (the "Employment Agreement"), whereby the Participant shall serve as President and Chief Executive Officer of the Company; and

WHEREAS, in connection with the Employment Agreement, the Company desires to grant 6,000,000 shares of restricted Common Stock (the "Restricted Shares") to the Participant.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Restricted Shares.** The Company hereby grants to the Participant the Restricted Shares, subject to the terms and conditions of this Agreement.

2. **Vesting.**

a. Subject to Section 2(c) hereinbelow, the Restricted Shares will vest in twenty percent (20%) increments on each of the first five (5) anniversaries of the Grant Date, provided that the Participant is continuously employed by the Company from the Grant Date through the applicable vesting date.

b. If the Participant's employment with the Company terminates for any reason, other than those reasons provided in Section 2(c) hereinbelow, before the date that the Restricted Shares are vested, the shares that have not yet vested as of the date of such termination will immediately be forfeited as of the date of such termination.

c. Notwithstanding Section 2(b) hereinabove, in the event that the Participant's employment with the Company terminates due to either (i) the death of the Participant, (ii) the Participant's Termination By Company Without Cause (as defined in Section 5(c) of the Employment Agreement), or (iii) the Termination by Employee Upon Change in Control (as defined in Section 5(e) of the Employment Agreement; provided, however, that the Participant provides the Employee Termination Notice, as defined in the Employment Agreement, within the required time period), the Restricted Shares shall immediately vest as of the date of the Participant's death or the termination of the Participant's employment with the Company as a result of either subsection (ii) or (iii) of this Section 2(c).

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3. **Issuance of Certificates/Escrow.**

a. The Company will issue in the Participant's name certificate(s) evidencing the Restricted Shares as soon as practicable following the Participant's execution of this Agreement. In addition to any other legends placed on the certificate(s), such certificate(s) will bear the following legend:

"The sale or other transfer of the shares of common stock represented by this certificate, whether voluntary or by operation of law, is subject to restrictions set forth in the Restricted Stock Award Agreement, dated as of August 3, 2010, by and between Liquidmetal Technologies, Inc. and the registered owner hereof. A copy of such agreement may be obtained from the Secretary of Liquidmetal Technologies, , Inc."

b. Upon the vesting of the Restricted Shares, the Participant will be entitled to a new certificate for the shares that have vested, without the foregoing legend, upon making a request for such certificate to the Secretary of the Company.

c. The certificates representing the Restricted Shares will be held in escrow by the Company, as escrow agent. The Company will give the Participant a receipt for the Restricted Shares held in escrow that will state that the Company holds such shares in escrow for the Participant's account, subject to the terms of this Agreement, and the Participant will give the Company a stock power for such Restricted Shares duly endorsed in blank which will be used in the event such any of shares are forfeited in whole or in part. As soon as practicable after the vesting date, the Restricted Shares will cease to be held in escrow, and certificate(s) for such number of shares of Restricted Shares will be delivered to the Participant or, in the case of the Participant's death, to the Participant's estate.

4. **Status of Participant.** This Agreement shall confer upon the Participant any right to continue in the employ of the Company, nor to interfere in any way with the right of the Company to terminate the employment of the Participant at any time.

5. **Nontransferability.** The Participant may not sell, transfer, assign, pledge, alienate, or hypothecate any of the Participant's Restricted Shares until they are vested, other than as set forth herein and any such attempted sale, transfer, assignment, pledge, alienation, or hypothecation will be null and void.

6. **Voting and Dividends.** The Participant may exercise full voting rights and will receive all dividends and other distributions paid with respect to the Restricted Shares, whether or not vested, in each case so long as the applicable record date occurs before any forfeiture of such shares. If, however, any such dividends or distributions are paid in shares of Company capital stock, such shares will be subject to the same risk of forfeiture, restrictions on transferability and other terms of this Agreement as is the Restricted Shares with respect to which they were paid.

7. **Market Stand-Off.** In connection with any underwritten public offering by the Company of its equity securities pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, including the Company's initial public offering, the Participant shall not directly or indirectly sell, make any short sale of, loan, hypothecate, pledge, offer, grant or sell any option or other contract for the purchase of, purchase any option or other contract for the sale of, or otherwise dispose of or transfer or agree to engage in any of the foregoing transactions with respect to, any Restricted Shares acquired under this Agreement without the prior written consent of the Company and the Company's underwriters. Such restriction shall be in effect for such period of time following the date of the final prospectus for the offering as may be requested by the Company or such underwriters. In no event, however, shall such period exceed one hundred eighty (180) days.

8. **Tax Matters.**

a. The Participant (and not the Company) shall be responsible for the Participant's federal, state, local or foreign tax liability and any of the Participant's other tax consequences that may arise as a result of the transactions contemplated by this Agreement. The Participant shall rely solely on the determinations of the Participant's tax advisors or the Participant's own determinations, and not on any statements or representations by the Company or any of its agents, with regard to all such tax matters. The acquisition of the Restricted Shares may result in adverse tax consequences that may be avoided or mitigated by filing an election under Section 83(b) of the Internal Revenue Code of 1986, as amended (the "Code"). Such election may be filed only within thirty (30) days after the date of this Agreement. **The Participant should consult with a tax advisor to determine the tax consequences of acquiring the Restricted Shares and the advantages and disadvantages of filing the Code Section 83(b) election. The Participant acknowledges that it is the Participant's sole responsibility, and not the Company's, to file a timely election under Section 83(b) of the Code, even if the Participant requests the Company or its representatives make this filing on the Participant's behalf. Attached a form 83(b) election as Exhibit A for convenience.**

b. To the extent that the receipt of the Restricted Shares or the vesting of the Restricted Shares results in income to the Participant for federal, state or local income tax purposes, the Participant shall deliver to the Company at the time the Company is obligated to withhold taxes in connection with such receipt or vesting, as the case may be, such amount as the Company requires to meet its withholding obligation under applicable tax laws or regulations, and if the Participant fails to do so, the Company has the right and authority to deduct or withhold from other compensation payable to the Participant an amount sufficient to satisfy its withholding obligations. If the Participant does not make an election under Code Section 83(b) in connection with this Award, the Participant may satisfy the withholding requirement, in whole or in part, by electing to have the Company withhold for its own account that number of Restricted Shares otherwise deliverable to the Participant from escrow hereunder on the date the tax is to be determined having an aggregate Fair Market Value on the date the tax is to be determined equal to the minimum statutory total tax that the Company must withhold in connection with the vesting of such Restricted Shares. The Participant's election must be irrevocable, in writing, and submitted to the Secretary of the Company before the applicable vesting date. The Fair Market Value of any fractional Restricted Shares not used to satisfy the withholding obligation (as determined on the date the tax is determined) will be paid to the Participant in cash.



9. **Miscellaneous.**

a. Each party to this Agreement (a) consents to the personal jurisdiction of the state and federal courts having jurisdiction in Orange County, California, (b) stipulates that the proper, exclusive, and convenient venue for any legal proceeding arising out of this Agreement is in the state or federal courts located in Orange County, California, and (c) waives any defense, whether asserted by a motion or pleading, that any such court is an improper or inconvenient venue.

b. No legal action or proceeding may be brought with respect to this Agreement more than one year after the later of (i) the last date on which the act or omission giving rise to the legal action or proceeding occurred, or (ii) the date on which the individual bringing such legal action or proceeding had knowledge or should have had knowledge of such act or omission. At the Company's election, such action or other legal proceeding shall be heard pursuant to a bench trial and, if so elected, the parties to such proceeding shall waive their rights to a trial by jury.

c. This Agreement shall be binding upon, and inure to the benefit of, the Company and its successors and assigns, and upon any person acquiring, whether by merger, consolidation, purchase of assets or otherwise, all or substantially all of the Company's assets and business, and upon the Participant's estate or any individual who obtains a right hereunder by will or the laws of descent and distribution.

10. **Investment Representation Statement.** The Participant must complete the Investment Representation Statement attached hereto as **Exhibit B** hereto to receive the Award.

**COMPANY:**

LIQUIDMETAL TECHNOLOGIES, INC., a Delaware corporation

By: /s/ Ricardo Salas  
Print Name: Ricardo Salas  
Print Title: Executive Vice President

**PARTICIPANT:**

/s/ Thomas Steipp  
THOMAS STEIPP

EXHIBIT A

ELECTION TO INCLUDE VALUE OF RESTRICTED PROPERTY IN GROSS INCOME IN YEAR OF TRANSFER UNDER CODE §83(b)

The undersigned hereby elects pursuant to Section 83 (b) of the Internal Revenue Code with respect to the property described below and supplies the following information in accordance with the regulations promulgated thereunder.

1. The name, address, and taxpayer identification number of the undersigned are:

Name: \_\_\_\_\_  
Spouse's Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Soc. Sec. Number: \_\_\_\_\_  
Spouse's Soc. Sec. Num: \_\_\_\_\_

2. The property with respect to which this election is being made consists of \_\_\_\_\_ ( \_\_\_\_\_ ) shares of Common Stock (the "Shares") of LIQUIDMETAL TECHNOLOGIES, INC., a Delaware corporation (the "Company").

3. The date on which the property was transferred was \_\_\_\_\_, \_\_\_\_\_.

4. The Shares are subject to forfeiture, subject to the undersigned's continuing performance of service on behalf of the Company, as set forth in a Restricted Stock Award Agreement entered into by the undersigned in connection with the undersigned's acquisition of such Shares.

5. The fair market value at the time of the transfer (determined without regard to any restrictions, other than those which by their term will never lapse) of the Shares is \$ \_\_\_\_\_ per Share.

6. The Shares were acquired by the undersigned in consideration for services.

7. A copy of this statement has been furnished to the Company.

Dated: \_\_\_\_\_, \_\_\_\_\_

Taxpayer: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Spouse: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**EXHIBIT B**

**LIQUIDMETAL TECHNOLOGIES, INC.  
INVESTMENT REPRESENTATION STATEMENT**

**TRANSFeree:** Thomas Steipp, a resident of California (“Transferee”)  
**ISSUER:** Liquidmetal Technologies, Inc., a Delaware corporation  
**SECURITY:** 6,000,000 shares of Common Stock (the “Shares”)  
**DATE:** August \_\_\_\_, 2010

Transferee represents and warrants to the Issuer the following in connection with the Restricted Stock Award Agreement dated August \_\_, 2010, between Transferee and Issuer, Issuer issued the Shares to Transferee, and, in connection therewith:

1. Transferee understands that an investment in the Shares is speculative. Transferee is aware of the Issuer’s business affairs and financial condition and has acquired sufficient information about the Issuer to reach an informed and knowledgeable decision to acquire the Shares. Transferee is acquiring the Shares not with a view to, or for resale in connection with, any “distribution,” within the meaning of the Securities Act of 1933, as amended (“Securities Act”).

2. Transferee understands that the Shares have not been registered under the Securities Act and are being transferred to the Transferee by reason of a specific exemption therefrom, which exemption depends upon, among other things, the accuracy of Transferee’s representations and warranties as set forth herein.

3. Transferee understands that the Shares must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Transferee further acknowledges and understands that the Issuer is under no obligation to register the Shares. Transferee understands that the instrument evidencing the Shares will be imprinted with a legend which prohibits the transfer of the Shares unless they are registered or such registration is not required in the opinion of counsel satisfactory to the Issuer.

4. Transferee is aware of the adoption of Rule 144 by the Securities and Exchange Commission, promulgated under the Securities Act, which permits limited public resale of shares acquired in a non-public offering subject to the satisfaction of certain conditions. Transferee understands that if the Issuer is not satisfying the current public information requirement of Rule 144 at the time Transferee wishes to sell the Shares, Transferee would be precluded from selling the Shares under Rule 144 even if the minimum holding period has been satisfied.

5. Transferee is capable of bearing the economic risk and burden of the investment and the possibility of complete loss of all of the investment, and the lack of a public market such that it may not be possible to readily liquidate the investment whenever desired.

Very truly yours,

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

**MASTER TRANSACTION AGREEMENT**

between

**Apple Inc.,**

**Liquidmetal Technologies, Inc.**

**Liquidmetal Coatings, LLC**

**and**

**Crucible Intellectual Property, LLC**

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Effective as of  
August 5, 2010

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[\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS AND AN ASTERISK, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

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## MASTER TRANSACTION AGREEMENT

This **MASTER TRANSACTION AGREEMENT** (this “*Agreement*”) is made effective as of August 5, 2010, by and between Apple Inc., a California corporation having its principal place of business at 1 Infinite Loop, Cupertino, California 95014 (“*Apple*”), Liquidmetal Technologies, Inc., a Delaware corporation having its principal place of business at 30452 Esperanza, Rancho Santa Margarita, California 92688 (“*LMT*”), Liquidmetal Coatings, LLC, a Delaware limited liability company having its principal place of business at 900 Rockmead Drive, Suite 240, Kingwood, Texas 77339 (“*LMC*”), and Crucible Intellectual Property, LLC, a Delaware limited liability company having its principal place of business at 31441 Santa Margarita Pkwy., Suite A #247, Rancho Santa Margarita, CA 92688 (“*LMT-SPE*”).

### 1. LMT Technology.

(a) For purposes of this Agreement:

- (i) “*LMT Technology*” shall mean any and all Intellectual Property and Intellectual Property Rights that, at any time during the Capture Period, are: (a) owned or licensed (including, without limitation, sub-licensed) by LMT or LMC, or that LMT or LMC have a right to use; or (b) owned or licensed (including without limitation sub-licensed) by LMT-SPE, or that LMT-SPE has a right to use, after being transferred to LMT-SPE by LMT or LMC. For the avoidance of doubt, any Intellectual Property Rights related to or arising from Intellectual Property first created, conceived, invented, or discovered before the end of the Capture Period shall be deemed to be within the definition of LMT Technology. Thus, for example, a patent application or copyright application filed, or any patent issued or copyright registration issued, more than five years after the Closing Date, but that is related to an invention conceived or work created within eighteen (18) months of the Closing date shall be deemed within the definition of LMT Technology. For purposes of clarification, however, improvements or derivatives of LMT Technology first created, conceived, invented, or discovered after the Capture Period shall not be “LMT Technology” notwithstanding the fact that such improvements or derivatives are derived from, improve, or otherwise relate to LMT Technology. The LMC patents and all LMC trademarks identified in Annex 15 hereto are excluded from “LMT Technology.” “Closing Date” shall mean the date of the license granted to Apple pursuant to Section 9(a).



- (ii) **“Intellectual Property”** shall mean and includes, but is not limited to, all algorithms, alloys, application program interfaces, compositions, customer lists, databases, schemata, equipment design, design documents and analyses, diagrams, documentation, drawings, formulae, discoveries and inventions (whether or not patentable), know-how, literary works, copyrightable works, works of authorship, manufacturing processes, mask works, logos, marks (including names, logos, slogans, and trade dress), methods, methodologies, architectures, processes, program listings, programming tools, proprietary information, protocols, schematics, specifications, software, software code (in any form including source code and executable or object code), subroutines, user interfaces, techniques, uniform resource locators, web sites, and all other forms and types of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing such as compilations of information, instruction manuals, notebooks, prototypes, reports, samples, studies, and summaries).
- (iii) **“Intellectual Property Rights”** shall mean and includes, but is not limited to, all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask works; (b) trademark and trade name rights and similar rights; (c) trade dress rights; (d) trade secret rights; (e) patents and industrial property rights; (f) other proprietary rights in Intellectual Property of every kind and nature; and (g) all registrations, renewals, extensions, combinations, divisions, continuations, continuations in part, reexamination certificates, or reissues of, and applications for, any of the rights referred to in clauses (a) through (f) above.
- (iv) **“Capture Period”** shall mean the period commencing on the Closing Date and ending on the eighteen month anniversary of the Closing Date.

- (b) LMT represents and warrants to Apple with respect to the portion of the LMT Technology existing as of the date of this Agreement:
- (i) Each of LMT and LMC has, immediately prior to its transfer, in the case of LMC, to LMT and, in the case of LMT, to LMT-SPE, good title to the portion of the LMT Technology which it purports to own and valid licenses and sublicenses to the portion of the LMT Technology which it purports to license and sublicense, in each case, free of Liens except for the Liens listed in Annex 1 and Liens that will be released and terminated on the Closing Date as a result of the transactions contemplated by this Agreement. A “*Lien*” is any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, bailment, conditional sales or title retention agreement, lien (statutory or otherwise), charge against or interest in property, in each case of any kind, to secure payment of a debt or performance of an obligation.
  - (ii) All licenses and sublicenses included in the LMT Technology permit the grant of the licenses, sublicenses and sub-sublicenses contemplated in the grant of the licenses that will be executed and delivered pursuant to Section 9 of this Agreement.
  - (iii) Neither LMT nor LMC is in breach of, nor is there any default under, any license or sublicense included in the LMT Technology under which LMT or LMC is a licensee or sublicensee; nor has any licensor or sublicensor asserted any breach or default thereunder.
  - (iv) The LMT Technology has not been specifically asserted against any third party, in a licensing or other context, in a manner in which the third party (A) has been accused of infringing or misappropriating the LMT Technology or (B) has standing to bring a declaratory judgment action.
  - (v) The LMT Technology has not been, and is not, the subject of any threatened, pending or past litigation, reexamination, reissue or interference proceeding, or other interested parties legal proceeding before any tribunal of competent jurisdiction.
  - (vi) There is no pending or, to the knowledge of LMT and LMC, any threatened claim that the use of the LMT Technology infringes any third party Intellectual Property Rights and, to the knowledge of LMT and LMC, there is no basis for any such claim.
  - (vii) There is no patent claim in the LMT Technology that has been found to be invalid or unenforceable, in whole or in part, for any reason, in any administrative, arbitration or judicial proceeding before a tribunal of competent jurisdiction, and LMT and LMC have not received notice from any third party threatening the filing of any such proceeding.
  - (viii) No litigation or other proceeding has been initiated or, to LMT’s knowledge, threatened against any of the LMT Technology, LMT or LMC or either the transactions contemplated under this Agreement or the agreements that are contemplated to be executed and delivered by such parties pursuant to Section 9 (collectively, the “*Transaction Documents*” or by Apple in connection with such transactions.

- (ix) The LMT Technology is not subject to any express or implied licensing obligations of a standards body or patent pool.
  - (x) LMT and LMC have not contributed computer code patented in the LMT Technology to an open source computer program or otherwise made any contributed computer code patented in the LMT Technology subject to the obligations of a copyright license for computer software that makes the source code available under terms that allow for modification and redistribution without having to pay the original author.
  - (xi) All patent applications for the LMT Technology were, have been, and continue to be duly maintained in accordance with the requirements of the United States Patent and Trademark Office and any foreign patent offices, including but not limited to the payment of all maintenance fees, annuities and other payments owed.
- (c) The representations made in Section 1(b) will be repeated as of the Closing Date (if different from the date of this Agreement).
- (d) At all times during the term of this Agreement, LMT and LMT-SPE, as applicable, shall notify Apple as soon as possible and in any event within ten (10) days after LMT or LMT-SPE knows, or has reason to know, of any of the events described below:
- (i) That LMC or LMT has any claim, or any of their respective sublicensees has notified or otherwise advised LMT or LMC that it may have a claim, that it reasonably anticipates it may or intends to assert under the LMT Technology against any third party, in a licensing or other context, in a manner in which the third party (A) would be accused of infringing or misappropriating the LMT Technology or (B) would have standing to bring a declaratory judgment action.
  - (ii) The LMT Technology shall be the subject of any threatened litigation, reexamination, reissue or interference proceeding, or other interested parties legal proceeding before any tribunal of competent jurisdiction.
  - (iii) Any claim that use of the LMT Technology infringes any third party Intellectual Property Rights shall be threatened or asserted.
  - (iv) Any patent claim in the LMT Technology shall be found to be invalid or unenforceable, in whole or in part, for any reason, in any administrative, arbitration, or judicial proceeding before a tribunal of competent jurisdiction.
  - (v) Any litigation or other proceeding shall have been initiated or threatened against any of the LMT Technology, LMT, LMT-SPE or LMC or the transactions contemplated under Transaction Documents or Apple in connection with such transactions.

- (e) LMT confirms that Apple has been authorized to have direct communications, conversations and discussions with California Institute of Technology (“*Caltech*”) and its employees for the purpose of investigating the validity, utility and value of the Amended and Restated License Agreement dated as of September 1, 2001 (“*Caltech License*”) between Caltech, as licensor, and LMT, as licensee, and the continued enforceability of the Caltech License against Caltech.

## 2. Transaction Approvals.

- (a) Concurrently with its execution and delivery of this Agreement to Apple, each of LMT and LMC shall deliver to Apple a certificate of its secretary or managing member, certifying (i) its certificate of incorporation or formation, as applicable, (ii) its bylaws or operating agreement, as applicable, (iii) resolutions adopted by its directors or managing member, as applicable, and (iv) the incumbency of the officers who have executed this Agreement and are authorized to execute the other Transaction Documents to which it will be a party, all in form and substance satisfactory to Apple.
- (b) LMT and LMC each represents and warrants to Apple (provided that LMC shall not be liable for any breach of the following representations and warranties by LMT):
  - (i) It is duly incorporated or formed, validly existing and in good standing in its state of formation and qualified and licensed to do business in, and in good standing in, any state in which the conduct of its business or its ownership of property requires that it be qualified.
  - (ii) The execution, delivery and performance of Transaction Documents have been duly authorized, and do not conflict with its certificate of incorporation or formation, bylaws, and operating agreement, nor constitute an event of default under any agreement by which it is bound.
  - (iii) No authorization, consent, approval, license, lease, ruling, permit, certification, exemption, filing for registration by or with any federal, regional, state, local or regulatory or administrative authority or other person (“*Approval*”) is required for its execution and delivery of this Agreement, which Approval has not been obtained and a copy of which has been provided to Apple; and such Approvals are in full force and effect;
  - (iv) No Approval is required for the execution and delivery of the other Transaction Documents, and the performance by each of LMT and LMC of their obligations under this Agreement and under the Transaction Documents, except for the Approvals listed on Annex 2 which have been obtained and are in full force and effect.

- (v) It has duly executed and delivered this Agreement and, when it has executed and delivered the other Transaction Documents to which it is a party, such Transaction Documents. Each Transaction Document to which it is a party constitutes or, when executed and delivered, will constitute the legal, valid and binding obligations of such party enforceable in accordance with its respective terms, except as the enforceability hereof or thereof may be limited by (a) bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).
- (c) The representations made in Section 2(b) will be repeated as of the Closing Date (if different from the date of this Agreement).
- (d) On or before the Closing Date, LMT shall obtain or shall have obtained and delivered to Apple a copy of each Approval listed on Annex 2.
- (e) On or prior to the Closing Date, LMT shall deliver or shall have delivered to Apple an opinion of special Delaware counsel to the effect that the approval of LMT's shareholders is not required for the execution and delivery, and the performance of the obligations under, the Transaction Documents by LMT, LMC or LMT-SPE, such opinion to be based on assumptions provided by Apple and to be otherwise in form and substance satisfactory to Apple.

**3. LMT-SPE Formation.**

- (a) On or before the Closing Date, LMT-SPE shall deliver or shall have delivered to Apple a certificate of its secretary, certifying the (i) certificate of formation of LMT-SPE, (ii) the limited liability company agreement of LMT-SPE, (iii) resolutions adopted by the directors of LMT-SPE resolving that it is in the best interests of LMT-SPE to execute and deliver such agreements, to perform the obligations and consummate the transactions contemplated herein, approving all agreements to which LMT-SPE shall become a party pursuant to this Agreement, and authorizing its officers to execute and deliver such agreements, to perform the obligations and consummate the transactions contemplated therein, and (iv) the incumbency of the officers of LMT-SPE who have executed this Agreement and are authorized to execute the other Transaction Documents to which it will be a party, all in form and substance satisfactory to Apple.
- (b) LMT-SPE represents and warrants to Apple on the date of this Agreement:
  - (i) It has been duly incorporated and is validly existing and in good standing in its state of formation and qualified and licensed to do business in, and in good standing in, any state in which the conduct of its business or its ownership of property requires that it be qualified.
  - (ii) The execution, delivery and performance of Transaction Documents to which it will be a party have been duly authorized, and do not conflict with LMT's, LMC's or its certificate of incorporation or formation, bylaws, and operating agreement, nor constitute an event of default under any agreement by which LMT, LMC or it is bound.

- (iii) No Approval is required for (A) its execution and delivery of this Agreement, and (B) its execution and delivery of the other Transaction Documents and its performance of its obligations hereunder and thereunder, except for the Approvals listed on Annex 2 which have been obtained and are in full force and effect.
  - (iv) It has duly executed and delivered this Agreement and, when it has executed and delivered the other Transaction Documents to which it will be a party, such Transaction Documents. Each Transaction Document to which it is a party constitutes or, when executed and delivered, will constitute the legal, valid and binding obligations of such party enforceable in accordance with its respective terms, except as the enforceability hereof or thereof may be limited by (a) bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).
  - (v) Each of the representations and warranties in Section 1(b) is true and correct, except that the references to LMT and LMC therein shall be deemed to be references to LMT-SPE, *mutatis mutandis*.
- (c) The representations made in Section 3(b) will be repeated as of the Closing Date (if different from the date of this Agreement).

**4. LMT Technology Transfers to LMT-SPE.**

- (a) On the Closing Date, LMC shall, pursuant to an assignment in the form of Annex 3, absolutely and unconditionally assign to LMT, and LMT shall accept from LMC, all of LMC's right, title and interest in and to the LMT Technology that LMC shall own at that time and that it might subsequently develop or acquire during the Capture Period. Notwithstanding the foregoing, LMC shall not be required to transfer to LMT the rights granted back to LMC under the LMC License or the Amended and Restated License and Technical Services Agreement of even date herewith between LMT and LMC.
- (b) On the Closing Date and after giving effect to the assignment set forth in Section 4(a) above, LMT shall, pursuant to an assignment in the form of Annex 4, absolutely and unconditionally assign to LMT-SPE, and LMT-SPE shall accept from LMT, all of LMT's right, title and interest in and to the LMT Technology that LMT shall own at that time and that it might subsequently develop or acquire during the Capture Period. Notwithstanding the foregoing, LMT shall not be required to transfer to LMT-SPE the rights granted back to LMT under the LMT License or the Amended and Restated License and Technical Services Agreement of even date herewith between LMT and LMC.

- (c) LMT and LMC shall cause each employee who contributes or will contribute to the development of LMT Technology to execute and deliver to LMT-SPE an assignment agreement, in form and substance satisfactory to Apple, that recites that all LMT Technology the employees creates, conceives of and invents prior to and during the Capture Period shall be assigned to LMT-SPE. LMT shall deliver copies of such assignment agreements to Apple on the Closing Date.
- (d) No later than the fifteenth (15<sup>th</sup>) day of each month until the end of the Capture Period, LMT shall deliver to Apple a written report, in form and substance satisfactory to Apple, describing in reasonable detail each the work of research and development project and each new Intellectual Property Right that has been created or acquired, whether as owner, licensee, sublicensee or otherwise, and whether or not registered or an application for registration has been made.
- (e) Following the transfer made pursuant to Section 4(b), LMT shall make all necessary or appropriate filings with respect to the LMT Technology transferred to LMT-SPE to ensure that all Intellectual Property and Intellectual Property Rights included in such LMT Technology that are to be registered with the applicable governmental or other registration authority have been so registered.
- (f) Until the end of the Capture Period, LMT shall, and shall cause each of its subsidiaries to, maintain records documenting the activities and work initiated, completed and otherwise performed and all written and electronic communications by its employees with respect to each of its research and development projects and each new Intellectual Property Right that has been created or acquired, whether as owner, licensee, sublicensee or otherwise, and whether or not registered or an application for registration has been made, for a period of not less than three years after the year in which such activities, work and communications occurred.
- (g) Apple may, by notice to LMT, request the audit of the books and records of LMT and its subsidiaries with respect to all aspects relating to Apple's exercise of its rights, powers and privileges, the performance by LMT and its subsidiaries of its and their obligations and the discharge by them of their liabilities under the Transaction Documents. Following its receipt of such notice, LMT shall, as determined by Apple, provide copies to Apple or make available to Apple or any representatives designated by it to conduct such audit, all books and records which Apple shall determine are relevant to the scope of the audit.
- (h) Prior to LMT, LMC or any of their respective sublicensees asserting any claim against a third party under the LMT Technology or upon request by Apple (which may be made from time to time), LMT or LMC, or both, shall (i) meet with and give Apple an opportunity to provide guidance and comments, as Apple deems appropriate, concerning any claim LMC, LMT or any of their respective sublicensees may be able to assert against third parties under the LMT Technology, including, without limitation, any strategy or tactics any such claimant may be contemplating pursuing to press such claims; and (ii) not unreasonably ignore, disregard or otherwise reject Apple's guidance and comments and shall, as appropriate, modify relevant aspects of such claims, including the anticipated legal strategy and tactics, consistent with such guidance or comments unless there is a reasonable basis for it or them not to do so. The obligations imposed by this Section 4(h) shall be in addition to the obligation to give notice set forth in Section 1(d).

**5. LMT-SPE Patent Prosecution.**

- (a) Apple shall have the sole and exclusive right, in the United States and other jurisdictions around the world, to control patent prosecution for inventions, current and future patent applications and patents included within the LMT Technology. Patent prosecution activities include, without limitation:
- (i) soliciting and receiving invention disclosures from inventors, including employees and contractors of LMT and LMC;
  - (ii) determining whether to file a patent application based on the invention disclosure;
  - (iii) determining whether to maintain as a trade secret, instead of filing a patent application, any invention, technical know-how or other information contained in an invention disclosure;
  - (iv) preparing a patent application based on the invention disclosure;
  - (v) determining the type and scope of patent applications that should be filed, determining the jurisdictions in which the patent applications should be filed and determining the timing of filing of such patent applications;
  - (vi) determining whether and when to file one or more additional patent applications worldwide based on the filed patent application including, without limitation, determining whether to file an international application under the Patent Cooperation Treaty (including designation decisions), a regional application (e.g., in the European Patent Office, including all validation decisions), and/or directly in any national patent office;
  - (vii) providing support and assistance to selected patent counsel to prepare and file foreign patent applications;



- (viii) determining whether and how to respond to informality rejections (e.g., Notices to File Missing Parts) received from the United States Patent and Trademark Office and other patent offices;
- (ix) responding to informality rejections;
- (x) determining whether and how to respond to substantive communications (e.g., office actions) received from the United States Patent and Trademark Office and other patent offices;
- (xi) responding to substantive patent office communications;
- (xii) communicating with LMT or LMC personnel for assistance regarding substantive patent office communications;
- (xiii) determining whether to abandon patent applications;
- (xiv) subject to Section 5(b) below, determining whether and when to pay publication, issue, grant, recordation, and registration fees, including, without limitation, when patent applications are published, accepted, granted, or otherwise allowed;
- (xv) subject to Section 5(b) below, paying publication, issue, grant, recordation, and registration fees;
- (xvi) submitting prior art known by inventors and reported to Apple to the United States Patent and Trademark Office and foreign patent offices according to the requirements of the patent offices;
- (xvii) determining whether and when to file divisional, continuation, continuation-in-part, reexamination, and/or reissue patent applications based on pending patent applications and issued patents;
- (xviii) responding to patent office communications in all patent office proceedings in all jurisdictions, including without limitation, examination, reexamination, reissue, and opposition proceedings;
- (xix) communicating with LMT or LMC personnel for assistance regarding patent office communications in all patent office proceedings in all jurisdictions, including without limitation, examination, reexamination, reissue, and opposition proceedings

- (xx) determining whether to respond to patent office communications relating to any patent under examination, reexamination, reissue, and opposition proceedings;
  - (xxi) determining whether and when to abandon applications under examination, reexamination, reissue or opposition proceedings;
  - (xxii) determining whether to pay annuity fees for foreign filed patent applications and foreign patents;
  - (xxiii) subject to Section 5(b) below, paying annuity fees for foreign filed patent applications and foreign patents;
  - (xxiv) determining whether and when to pay maintenance fees for United States patents;
  - (xxv) subject to Section 5(b) below, paying maintenance fees for United States patents; and
  - (xxvi) determining whether to file requests for certificates of corrections or other corrective measures for issued patents in the United States and abroad.
- (b) Apple shall bear the cost of all patent prosecution and maintenance for inventions, current and future patent applications and patents included within the LMT Technology, including, without limitation, patent counsel legal fees and patent office fees and maintenance and annuity fees (collectively "***Prosecution and Maintenance Costs***"), provided, however, that that Apple shall not be responsible for any Prosecution and Maintenance Fees for patentable inventions as to which Apple has elected not to prosecute pursuant to Section 5(e) or patents or patent applications as to which Apple has elected not to maintain pursuant to Section 5(e), provided that Apple shall have first provided no less than thirty (30) days' prior written notice of such election to LMT-SPE.
- (c) LMT-SPE agrees to utilize legal counsel identified by Apple and approved by LMT-SPE ("***Patent Counsel***"), such approval not to be unreasonably withheld, for patent prosecution of inventions, current and future patent applications and patents within the LMT Technology to which LMT-SPE has decided to exercise under Section 5(d). Patent Counsel will sign and execute an engagement letter in the form of Annex 13, with appropriate conflict waivers, identifying that Patent Counsel represents both Apple and LMT-SPE.

- (d) LMT-SPE and Apple agree that Patent Counsel shall be instructed to prepare and send to Apple and LMT-SPE a quarterly patent prosecution report that will include such matters as each of Apple and LMT-SPE shall direct and shall include, without limitation: (i) information identifying invention disclosures on which Apple has decided not to file patent applications, such inventions to be treated as trade secrets, and to file patent applications; (ii) jurisdictions where Apple has decided to file patent applications; (iii) which patent applications Apple has decided to let go abandoned; (iv) any continuations, continuation-in-parts, or divisional applications Apple has decided to file, and (v) what fees, (including without limitation, issue fees, publication fees, maintenance fees, grant fees and annuity fees), Apple intends to pay. Apple shall attempt to arrange a meeting with LMT-SPE or its representatives in person or telephonically, at least once each calendar quarter to review the most recent quarterly report.
- (e) If with respect to a patentable invention (x) Apple has decided not to prosecute the application for a patent thereof and not to require that such invention be treated as a trade secret or (y) Apple has decided to prosecute the application for a patent thereof but not in all jurisdictions in which an application for a filing or registration may be made, as disclosed to LMT-SPE in a quarterly report or by Apple at its quarterly meeting with LMT-SPE, LMT-SPE may, at its sole cost and expense, (i) file a patent application on a submitted invention disclosure described in clause (x); (ii) file foreign patent applications in jurisdictions not selected to be pursued by Apple or file a Patent Cooperation Treaty application for an invention described in clause (y); (iii) take over patent prosecution of any patent application that Apple has determined is to be abandoned; (iv) file a continuation, divisional or continuation-in-part application based on a pending patent application if Apple determines not to file the continuation, divisional or continuation-in-part application; (v) pay an annuity fee for a foreign patent application if Apple has determined not to pay the annuity fee; and (vi) pay a maintenance fee for a United States patent or a foreign patent for an invention if Apple has determined not to pay the maintenance fee. In connection with any patent application as to which Apple has decided not to prosecute, LMT-SPE shall retain intellectual property counsel reasonably acceptable to Apple
- (f) Patent Counsel shall be instructed by LMT-SPE to set up a joint customer number in the United States Patent Office for Apple and LMT-SPE to allow Apple and LMT-SPE to monitor prosecution activities for all patent applications within the United States.
- (g) With respect with patent preparation, patent prosecution, and patent maintenance related activities recited in Section 5(a), Apple shall have no responsibility, no liability, nor any further obligation to LMT, LMC or LMT-SPE beyond those specifically provided for herein.

- (h) Should LMT-SPE decide to exercise any of the rights recited in Section 5(e) and take control over specific applications or patents (collectively, the “*LMT Controlled Patents/Applications*”), LMT-SPE shall consult with Apple and Patent Counsel, and allow Apple and Patent Counsel to comment on, any filing of a patent application, any amendment thereto, whether voluntary or involuntary, any “Reply to Office Action,” any “Information Disclosure Statement,” or similar filing, participating in an interview with a patent examiner with respect to such a patent application, or any similar action, in each case before LMT-SPE or its counsel shall file such patent application, amendment, or other filing, participate in such interview or take such other action. LMT-SPE shall instruct Patent Counsel to ensure that with respect to all patent office communications in all patent office proceedings in all jurisdictions concerning the LMT Controlled Patents/Applications:
  - (i) LMT-SPE does not take positions in patent office proceedings adverse or inconsistent with positions taken by Apple and Patent Counsel, and
  - (ii) LMT-SPE and Apple conform to patent office rules and regulations regarding submission of prior art.
- (i) LMT and LMC employees shall provide cooperation and support to Apple (and) Patent Counsel to support patent prosecution activities for inventions, current and future patent applications and patents included within the LMT Technology. This cooperation and support will be provided at no charge to Apple. The Patent Counsel has the sole discretion to determine when the cooperation and support is necessary to support the patent prosecution activities.
- (j) Concurrently with its delivery of each monthly report pursuant to Section 4(d), LMT, LMC and LMT-SPE each shall execute and deliver to Apple a release, in the form of Annex 12, pursuant to which it shall release Apple of all claims it may have against Apple that it may have in connection with any loss, liability, damage, action, cause of action or any other matter whatsoever that may have arisen in relation to the exercise of any right, power or privilege or the performance or discharge of any obligation under Section 5(a).

**6. LMT-SPE Existence and Separateness.**

- (a) LMT-SPE shall (i) do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and its rights and franchises; (ii) conduct its business substantially as conducted immediately after the transactions contemplated in Sections 4(b) and 9(a) and (c) are consummated; (iii) at all times maintain, preserve and protect all of its assets and properties used or useful in the conduct of its business, including all licenses, permits, charters and registrations; and (iv) transact business only in the name of Crucible Intellectual Property, Inc.
- (b) LMT-SPE shall not (i) engage in any business other than as provided in its certificate of formation, limited liability company agreement and the Transaction Documents, (ii) make any change in its capital structure, including, without limitation, the issuance of any additional membership interests, warrants or other securities convertible into membership interests or any revision of the terms of its outstanding membership interests, (iii) amend, waive or modify any term or provision of its certificate of formation or limited liability company agreement, (iv) make any change to its name indicated on the public records of its jurisdiction of organization or (v) change its jurisdiction of organization.

- (c) LMT-SPE shall pay, perform and discharge or cause to be paid, performed and discharged promptly all charges and claims payable by it, including (i) all federal, state, provincial, county, city, municipal, local, foreign or other governmental taxes; (ii) all levies, assessments, charges, or claims of any governmental entity or any claims of statutory lienholders, the nonpayment of which could give rise by operation of law to a Lien on the LMT Technology or any other property of LMT-SPE; and (iii) lawful claims for labor, materials, supplies and services or otherwise before any thereof shall become past due.
- (d) LMT-SPE shall (i) perform each of its obligations under this Agreement and the other agreements to which it is a party and (ii) comply with all federal, state and local laws and regulations applicable to it and the LMT Technology.
- (e) LMT-SPE shall not sell, transfer, convey, assign or otherwise dispose of, or assign any right to receive income in respect of, any of its properties or other assets or any of its stock (whether in a public or a private offering or otherwise), any LMT Technology or agreement therefore except as otherwise expressly permitted by this Agreement.
- (f) LMT-SPE shall not create, incur, assume or permit to exist any claim of ownership or Lien on or with respect to the LMT Technology or with respect to its other properties or assets (whether now owned or hereafter acquired) except for the Liens in favor of Apple.
- (g) LMT-SPE shall not become a party to any agreement, note, indenture or instrument other than (i) the assignments described in Sections 4(b) and (c), (ii) the licenses described in Sections 9(a) and (c), (iii) any agreements necessary to establish a bank account in its own name, and (iv) any new agreements or amendments in furtherance of this Agreement or the other Transaction Documents.
- (h) LMT-SPE shall not amend, modify or waive any term or provision of the assignments described in Section 4(b) or (c) the licenses described in Section 9(c) without Apple's prior written consent.
- (i) LMT-SPE shall not directly or indirectly, by operation of law or otherwise, (i) form or acquire any equity interests in any partnership, joint venture, unincorporated organization, trust, association, corporation (including a business trust), limited liability company, institution, public benefit corporation, joint stock company, or any other entity of whatever nature, or (ii) merge with, consolidate with, acquire all or substantially all of the assets or capital stock of, or otherwise combine with or acquire, any partnership, corporation, limited liability company, or any other entity of whatever nature.

- (j) LMT-SPE shall not make any investment in, or make or accrue loans or advances of money to, any person, corporation, firm, joint venture, partnership, limited liability company, association, enterprise, trust or other entity or organization ("*business enterprise*"), including, without limitation, any director or officer or employee of LMT-SPE, LMT or any direct or indirect subsidiary of LMT, through the direct or indirect lending of money, holding of securities or otherwise.
- (k) Except as required by U.S. generally accepted accounting principles, LMT, LMC and LMT-SPE shall not make statements or disclosures, prepare any financial statements or in any other respect account for or treat the transactions contemplated by the assignments described in Sections 4(b) and (c)(ii) (including for accounting, tax and reporting purposes) in any manner other than as an increase in the stated capital of LMT-SPE.
- (l) LMT-SPE shall not at any time declare any distributions, repurchase any membership interest, return any capital, or make any other payment or distribution of cash or other property or assets in respect of LMT-SPE's membership interest, other than from payments received from Apple pursuant to Section 9(b).
- (m) LMT-SPE shall not create, incur, assume or permit to exist any indebtedness or liabilities, except for taxes and trade payables incurred in the ordinary course of business.
- (n) To the extent that LMT-SPE has cash, it will maintain its own deposit account or accounts, separate from those of LMT and its subsidiaries, with commercial banking institutions and ensure that its funds will not be used for other than its corporate uses, nor will such funds be commingled with the funds of any of LMT and its subsidiaries and vice versa.
- (o) LMT-SPE will maintain a separate address from the address of LMT and its subsidiaries and vice versa, or to the extent LMT-SPE may have offices in the same location as LMT or its Subsidiaries, maintain a fair and appropriate allocation of additional, incremental overhead costs among them, with each such entity bearing its fair share of such expense.
- (p) LMT-SPE will issue separate financial statements prepared not less frequently than quarterly and prepared in accordance with generally accepted accounting principles, consistently applied (except for the omission of certain footnotes and other presentation items required by the generally accepted accounting principles, consistently applied, with respect to audited financial statements), which financial statements need not be separately audited or reviewed by an independent accounting firm.
- (q) LMT-SPE will observe all necessary, appropriate and customary company (or corporate) formalities, including, but not limited to, holding all regular and special members' and board of directors' meetings appropriate to authorize all limited liability company action, keeping separate and accurate minutes of its meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records and accounts, including, but not limited to, payroll and intercompany transaction accounts, to the extent applicable.

- (r) LMT-SPE will use its best efforts to refrain from using the stationery of any of LMT and its subsidiaries and shall instead make all written communications in its own name and vice versa; *provided* that in the event that any affiliate of LMT conducts business on behalf of LMT-SPG, such agency relationships shall be fully disclosed to applicable third parties when acting in such capacity.
- (s) LMT-SPE will conduct all its business in its own name and use its best efforts to avoid the appearance that it is conducting business on behalf of any other affiliate of LMT and vice versa, *provided* that in the event that either LMT-SPE, on the other hand, or affiliate of LMT conducts business on behalf of any member of the other Group, such agency relationship shall be fully disclosed to applicable third parties when acting in such capacity.

**7. Due Diligence.**

- (a) On or prior to the Closing Date, LMT shall provide or shall have provided complete and accurate replies to all questions and items requested on the due diligence checklist Apple provided LMT and attached hereto as Annex 14 (“***Due Diligence Checklist***”). Any information included in the “Notes” column of the Due Diligence Checklist is provided by LMT solely for purposes of convenience and is not deemed to be LMT’s exclusive reply or response to the questions and items requested on the Due Diligence Checklist.
- (b) LMT hereby represents and warrants to Apple that it has provided all material information of a nature or type that would influence the decision of a reasonable person that Apple has requested in the Due Diligence Checklist. The representation and warranty in this Section 7(b) will be repeated on and as of the Closing Date (if different from the date of this Agreement).
- (c) In addition to and exclusive of the factual information provided pursuant to the Due Diligence Checklist, LMT hereby represents and warrants that all factual information taken as a whole furnished by or on behalf of LMT or its subsidiaries in writing to Apple for purposes of or in connection with this Agreement or the other Transaction Documents and all other such factual information taken as a whole heretofore or hereafter furnished by or on behalf of LMT or its subsidiaries in writing to Apple, will be, true and accurate, in all material respects, on the date as of which such information is dated or certified and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in any material respect at such time in light of the circumstances under which such information was provided. The representation and warranty in this Section 7(c) will be repeated as of the Closing Date (if different from the date of this Agreement).

**8. LMT Indebtedness and Liens.**

- (a) On or prior to the Closing Date, LMT and LMC shall identify or shall have identified to and shall provide or shall have provided Apple copies of all documents evidencing and otherwise relating all of the following:
- (i) all indebtedness of LMT and LMC for borrowed money or for the deferred purchase price of property or services payment;
  - (ii) all reimbursement and other obligations with respect to letters of credit, bankers' acceptances and surety bonds, whether or not matured;
  - (iii) all obligations evidenced by notes, bonds, debentures or similar instruments and all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by LMT and LMC (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property);
  - (iv) all leases for any property (whether real, personal or mixed) that, in accordance with generally accepted accounting principles, would be required to be classified and accounted for as a capital lease on a balance sheet of LMT or LMC;
  - (v) all obligations of LMT and LMC under commodity purchase or option agreements or other commodity price hedging arrangements, in each case whether contingent or matured;
  - (vi) all obligations of LMT and LMC under any foreign exchange contract, currency swap agreement, interest rate swap, cap or collar agreement or other similar agreement or arrangement designed to alter the risks of LMT and LMC arising from fluctuations in currency values or interest rates, in each case whether contingent or matured;
  - (vii) all guaranties for any of the foregoing;
  - (viii) all indebtedness referred to in clauses (i) through (vii) above secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in property or other assets (including accounts and contract rights) owned by LMT or LMC, even though LMT and LMC has not assumed or become liable for the payment of such indebtedness; and
  - (ix) obligations of LMT and LMC to trade creditors incurred in the ordinary course of business that are overdue by more than 120 days or exceed \$25,000.
- (b) On or prior to the Closing Date, LMT and LMC shall provide or shall have provided copies of Uniform Commercial Code, tax and judgment lien searches in all jurisdictions in which Apple requests such searches, and shall identify or shall have identified to Apple all Liens on their respective assets, including the LMT Technology.



- (c) On or prior to the Closing Date, Apple shall identify or shall have identified those creditors and lien holders of LMT whom shall be paid from the consideration Apple will pay LMT-SPE pursuant to Section 9(b).
- (d) On or prior to the Closing Date, LMT shall obtain or shall have obtained from each creditor and holder of Liens on its assets identified by Apple a payoff letter in substantially the form of Annex 5 or a document otherwise in form and substance satisfactory to Apple, (i) setting forth the amount owed to such creditor or lien holder, (ii) the account into which such amount shall be paid, (iii) an acknowledgment that when such creditor or lien holder has been paid such amount no further amounts will be owed to it by LMT, and (iv) except for trade creditors, releasing LMT of all further claims.
- (e) LMT-SPE shall be deemed to have received and distributed to LMT all payments made by Apple pursuant to the Apple License Agreement. LMT-SPE and LMT hereby authorize and direct Apple to pay directly those creditors and holders of Liens identified by Apple as creditors and lienholders of LMT to be paid from the proceeds of the payments made by Apple on the Closing Date pursuant to the Apple License Agreement and from whom payoff letters or other releases satisfactory to Apple have been obtained. Nothing in this Section 8(f) shall obligate Apple to pay the consideration other than on the terms and subject to the conditions specified in the Apple License Agreement.
- (f) LMT shall ensure that upon the payments contemplated in Section 8(e) being made to its creditors and holders of Liens on its assets no Liens, other than Liens in favor of Apple, shall exist on its assets.
- (g) LMT represents and warrants that upon the payments contemplated in Section 8(e) being made, the LMT Technology will be free and clear of all Liens except for any Liens in favor of Apple. This representation and warranty will be repeated as of the Closing Date (if different from the date of this Agreement).
- (h) From and after the date on which the payments contemplated in Section 8(e) are made, LMT shall not, and shall ensure that none of its direct or indirect subsidiaries shall, create, incur, assume or permit to exist allow any Lien on the shares or any equity interests of LMT-SPE or any portion of the LMT Technology in which it might have any right, title or interest, including, without limitation, inventions, trade secrets, patent applications and other proprietary rights which LMT and LMC are obligated hereunder to transfer to LMT-SPE.

**9. LMT-SPE Licenses.**

- (a) LMT-SPE shall execute and deliver to Apple a license agreement in the form of Annex 6 (the “*Apple License Agreement*”) upon its receipt of notice from Apple that the conditions precedent in Section 9(d) have been satisfied or waived and Apple is prepared to make the Initial Payment (as defined in the Apple License Agreement).

- (b) Upon its receipt from LMT-SPE of the Apple License Agreement, Apple shall pay the Initial Payment thereunder in accordance with the Apple License Agreement and the Escrow Agreement of even date herewith among the parties hereby and US Bank, N.A. Apple shall deduct from the Final Payment (as defined in the Apple License Agreement) repayment of \$[\*] in advances made to LMT prior to the date of this Agreement. Any further payments by Apple in consideration for the license granted pursuant to Section 8(a) shall be made as provided in the Apple License Agreement.
- (c) Also on the Closing Date, LMT-SPE shall execute and deliver to (i) LMT a license in the form of Annex 7 (the “*LMT License Agreement*”) (ii) LMC a license in the form of Annex 8 (the “*LMC License Agreement*”).
- (d) Apple’s obligations to accept the Apple License Agreement and to make the Initial Payment thereunder shall be further subject to the satisfaction or written waiver, in Apple’s sole discretion of the following conditions precedent:
  - (i) LMT, LMC and LMT-SPE shall have performed all their obligations set forth in Sections 1, 2, 3, 5, 6, 7 and 8;
  - (ii) All representations and warranties in Sections 1(b), 2(b), 3(g), 7(b), 7(c), 8(g) and 8(h) shall be true and correct as of the date on which all other conditions in this Section 9(d) are satisfied or waived by Apple;
  - (iii) Apple shall have received and approved an opinion of California counsel to LMT and LMC as to corporate status (and equivalent for other business entities); valid existence; good standing; corporate power and action (and equivalent for other business entities); due authorization, execution and delivery; no violation of articles and bylaws (and equivalent for other business entities), material agreements, court orders, applicable law; all filings, consents and approvals obtained in connection with the transactions; and to the knowledge of such attorneys no litigation or like proceedings are pending regarding the Transaction Documents, and that the Transaction Documents are fully enforceable;
  - (iv) As to LMT-SPE, a Delaware limited liability company, Apple shall also have received, and approved an opinion of Delaware counsel that LMT-SPE as to its limited liability company status, valid existence, good standing, limited liability company power and action, due authorization, enforceability, execution and delivery of all Transaction Documents, no violation of its articles and bylaws, material agreements, court orders, compliance with applicable law, all filings, consents and approvals obtained in connections with the transactions, that the authorized capital stock of LMT-SPE are duly authorized, validly issued and fully paid and non-assessable further that LMT-SPE’s assets, in light of the structure of LMT-SPE, and the restriction on its formation, and future operations will not be consolidated with LMT’s or LMC’s assets in any bankruptcy case;

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[\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS AND AN ASTERISK, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

- (v) LMT shall have executed and delivered to Apple a technology development agreement in the form of Annex 9;
  - (vi) LMT shall have delivered to Apple a security agreement in the form of Annex 10, which security agreement shall exclude from the collateral LMT's interest in LMC;
  - (vii) LMT-SPE shall have delivered to Apple a security agreement in the form of Annex 11;
  - (viii) Apple, LMT, LMC and LMT-SPE shall have jointly engaged patent counsel satisfactory to Apple to represent LMT and its affiliates in connection with its patent applications and prosecutions;
  - (ix) Apple shall have received from LMT, LMC and LMT-SPE such further agreements and instruments as Apple reasonably determines are required to give effect to the agreements and transactions contemplated between the parties;
  - (x) Apple shall have concluded its discussions with Caltech concerning the Caltech License, and with results satisfactory to Apple;
  - (xi) Apple shall have completed all legal, tax, accounting, engineering and confirmatory business due diligence on the LMT Technology, LMT, LMC and LMT-SPE, and with results satisfactory to Apple; and
  - (xii) Apple shall not be entitled under Section 14(b) to terminate this Agreement.
- (e) The parties agree that the security interest granted to Apple under the security agreement described in Section 9(d)(vii) shall be:
- (i) subordinated to all of Apple's rights under the Apple License Agreement, such that in the event that such security interest shall be enforced in any of the collateral subject to such security interest any rights acquired as a result of such enforcement shall be subject to all of, and shall not entitle the acquirer of any such rights to interfere with or otherwise disturb, Apple's rights or its enjoyment of those rights under the Apple License Agreement;
  - (ii) subordinated to all of LMC's rights under the LMC License Agreement, such that in the event that such security interest shall be enforced in any of the collateral subject to such security interest any rights acquired as a result of such enforcement shall be subject to all of, and shall not entitle the acquirer of any such rights to interfere with or otherwise disturb, LMC's rights or its enjoyment of those rights under the LMC License Agreement; and
  - (iii) prior to all of LMT's rights under the LMT License Agreement, such that in the event that such security interest shall be enforced in any of the collateral subject to such security interest any rights acquired as a result of such enforcement shall be free and clear of LMT's right under the LMT License Agreement, and LMT's rights under the LMT License Agreement and, to the extent the rights acquired as a result of the enforcement of such security interest conflict with the LMT License Agreement, the LMT License Agreement shall continue to exist at the sole and absolute discretion of the acquirer of rights as a result of such enforcement.

- (f) LMT, on behalf of itself and its respective heirs, executors, successors, assigns, agents and all other persons and entities associated with either of them, covenants that it will not at any time, whether now or in the future, sue, file, assist, or participate in, or cause, assert, or induce any other person or entity to sue, file, assert, or participate in any claim or allegation against any of the following for infringement of Intellectual Property Rights of any of the LMT Technology: (i) Apple and any of its Subsidiaries; or (ii) their respective past, present and future owners, shareholders, parents, subsidiaries, successors, assigns, divisions, units, officers, directors, employees, agents, attorneys, or representatives, or (iii) their respective past, present and future direct and indirect vendors, suppliers, manufacturers, distributors, customers, or end users (collectively, ***“Apple-Related Entities”***) in connection with any act by a Apple-Related Entity at the direction of or on behalf of Apple related to or in connection with any Apple-branded or Apple-licensed product. This covenant not to sue does not inure to the benefit of any third parties for their conduct that is unrelated to Apple or any of its Subsidiaries, and this covenant not to sue shall not apply in any action in which Apple or any other Apple-Related Entity raises as a defense in an infringement action that LMT is a necessary party in any such action. For purposes of this paragraph, the grant to a third party of an exclusive license or sublicense to any Intellectual Property Rights relating to any LMT Technology in a field other than Consumer Electronic Products shall not be a violation of this paragraph, even if the third party is granted, as a part of such exclusive license, the right to sue or otherwise assert infringement claims with respect to such Intellectual Property Rights.
- (g) LMT, LMC and LMT-SPE shall not amend, modify, supplement, amend and restate or replace the LMT License Agreement or the LMC License Agreement except (i) with the prior written consent of Apple or (ii) for the addition to the schedules attached thereto of Intellectual Property Rights created or acquired during the Capture Period.

**10. Covenant Not to Compete.**

- (a) LMT shall not, and shall ensure that its direct and indirect subsidiaries shall not, directly, or indirectly through or in association with any person, business enterprise or otherwise, (i) develop, design, manufacture, sell, offer for sale or otherwise distribute or provide any (x) Consumer Electronic Products or (y) materials, components, manufacturing services or technology for use or integration therewith; (ii) own or acquire any interest in, manage, operate, control or participate in any business which is engaged in any of the activities described in preceding subsection (i); or (iii) act as a consultant or advisor, loan or otherwise provide funds or assistance of any sort, or sell or license intellectual property to any business enterprise which is or is attempting to engage in any of the activities listed in subsection (i) or (ii) hereof.

**“Consumer Electronic Products”** means personal computers (portable and desktop); tablet or slate style computing devices; handheld electronic and/or communication devices (e.g., smartphones, digital music players, multi-function devices, etc.); any device whose function includes the creation, storage or consumption of digital media; any component or sub-component in any Consumer Electronic Product; and any accessory that is the same or similar (in Apple’s sole discretion) to an accessory made or sold by or on behalf of Apple (regardless of when Apple sold or started to sell such accessory, including after the Closing Date) that is suitable for use with any Consumer Electronic Product. Notwithstanding the foregoing, “Consumer Electronic Products” shall not include:

- (i) products (except for any product that is capable of interacting or interfacing with a Consumer Electronic Product) that are powered by electricity or batteries but that do not in any way involve the creation, storage, consumption, use, viewing, transmission, or processing of digital media or digital information and do not involve the use of wireless communication networks. Products that fall into this category include, without limitation, electric-powered and/or battery-powered drills, hand tools and watches (i.e. a wrist-worn device whose sole function is to display the time of day);
  - (ii) medical devices and other products that are not the same or similar to any Apple product (regardless of when Apple sold or started to sell such product, including after the Closing Date) and that are used exclusively for the diagnosis and/or treatment of human or animal health conditions; or
  - (iii) products or components thereof that are not the same as or similar to any Apple product (regardless of when Apple sold or started to sell such product, including after the Closing Date) or component of any Apple product and that are made solely for, and sold solely into, the defense/military, automotive, medical, or industrial markets.
- (b) The parties hereto acknowledge and agree that the value to the parties of the transactions provided for in this Agreement would be substantially and materially diminished if either LMT directly or indirectly through or in association with any person or business enterprise or otherwise, were hereafter to breach any of the provisions of Section 10(a), and LMT has therefore offered and agreed to the provisions of Section 10(a) as a material inducement to Apple to enter into this Agreement, and in consideration of the promises, representations and covenants made by Apple under this Agreement. LMT specifically acknowledges and agrees that the provisions of Section 10(a) are commercially reasonable restraints on it and are reasonably necessary to protect the interests Apple is acquiring hereunder and under the Transaction Documents. The parties hereto further acknowledge and agree that Apple would be irreparably damaged by a breach of Section 10(a) and would not be adequately compensated by monetary damages for any such breach. Therefore, in addition to all other remedies, Apple shall be entitled to injunctive relief from any court having jurisdiction to restrain any violation (actual or threatened) of Section 10(a) without the necessity of (i) proving monetary damages or the insufficiency thereof, or (ii) posting any bond in regard to any injunctive proceeding. Notwithstanding anything in this Agreement to the contrary, the rights and licenses granted under the License Agreement, dated March 10, 2009, between LMT and The Swatch Group Ltd., shall not constitute a violation of Section 10(a) hereof or of any other provision of the MTA or any Transaction Document, but only to the extent that such License Agreement is not amended after the date hereof to include any new provision that would violate Section 10(a).

- (c) If any court shall in any proceeding refuse to enforce Section 10(a) in whole or in part because the time limit, geographical scope or any other element thereof is deemed unreasonable in the jurisdiction of that court, it is expressly understood and agreed that Section 10(a) shall not be void but, for the purpose of such proceeding, such time limit, geographical scope or other element shall be deemed to be reduced to the extent necessary to permit the enforcement of Section 10(a) to the maximum extent allowable in that particular jurisdiction. The foregoing, however, is not intended to and shall not in any way affect, invalidate or limit the remaining provisions of Section 10(a) or affect, invalidate or limit the validity or enforceability of Section 10(a) as written in any other jurisdiction at any time.
- (d) From time to time, LMT or LMC may request that Apple grant express written permission to develop, design, manufacture, sell, offer for sale or otherwise distribute or provide any accessory for a Consumer Electronic Product or materials, components, manufacturing services or technology for use or integration therewith. Such requests shall be submitted in writing to Apple's Senior Director of Legal Affairs for Hardware Products, and shall specify in reasonable detail the contemplated activity for which Apple's consent is being sought. Apple shall respond within a reasonable period of time, and Apple shall consider each such request in good faith taking into account both the business opportunity to LMT or LMC, as well as any actual or potential impact to Apple's current or future business opportunities.

**11. Confidentiality.** The disclosure and use of all confidential information pursuant to this Agreement and the other Transaction Documents shall be subject to the terms of the parties' existing Confidentiality Agreement and Exclusivity Agreement, both dated April 30, 2010, the terms of which are incorporated by reference herein. Without limiting the generality of the foregoing, LMT shall ensure that neither LMT nor any Affiliate of LMT shall orally or in writing refer to Apple or any Affiliate of Apple in any press conference, publication, press release, filing, registration, notice or other communication without providing Apple at least three (3) business days' prior notice and a copy of each such proposed reference, allowing Apple an opportunity to review and comment on the same, and making any changes in each such proposed reference as requested by Apple, unless the failure by LMT to make such changes would result in LMT's failing to comply with applicable law.

**12. Independent Contractor.**

- (a) Each of LMT, LMC and LMT-SPE shall at all times be an independent contractor under the Transaction Documents and not an employee or agent of Apple. None of LMT, LMC and LMT-SPE shall have authority to obligate Apple in any manner whatsoever and shall not make any representations or statements for or about Apple or any Apple products or services.
- (b) Each of LMT, LMC and LMT-SPE shall have full responsibility for all applicable withholding taxes for all compensation paid to it and for compliance with all applicable labor and employment requirements with respect to its employees, including, without limitation, state worker's compensation insurance coverage requirements and any immigration or visa requirements. Each of LMT, LMC and LMT-SPE agrees to indemnify, defend and hold Apple harmless from any liability for, or assessment of, any claims or penalties with respect to such withholding taxes, labor, employment or immigration requirements, including, without limitation, any liability for, or assessment of, withholding taxes imposed on Apple by the relevant taxing authorities with respect to any compensation paid to it or its employees.

**13. Indemnification.**

- (a) LMT shall defend, indemnify and hold Apple (and its directors, officers, affiliates, employees, agents, successors and assigns (each, an **"indemnified party"**)) harmless from and against any and all liability, loss, expense (including, without limitation, reasonable attorneys' fees), or claims for injury or damages (i) incurred by an indemnified party as a result of (A) any inaccuracy in or breach of the representations, warranties or covenants made by LMT, LMC or LMT-SPE in any Transaction Document or (B) any act or omission by any of LMT, LMC or LMT-SPE or its directors, officers or employees that violates any law or constitutes tortious acts or omissions; or (ii) incurred by any indemnified party or asserted against any indemnified party by any third party arising out of, in connection with, or as a result of (A) the execution or delivery of this Agreement, any other Transaction Document, the performance by the parties hereto or thereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby, (B) Apple's use of the LMT Technology or rights under the license agreement with LMT-SPE, or (C) LMT's performance of the services provided pursuant to the technology development agreement executed and delivered pursuant to Section 9(d)(iv), except to the extent due directly to LMT's following instructions given to it by Apple in the "Statements of Work" in situations in which Company has complied with its obligations under section 1(f) of such thereof. In the event that a claimant obtains a final judgment against Apple expressly finding that Apple acted with gross negligence, in bad faith or that it engaged in willful misconduct, then this indemnity and hold harmless agreement shall not apply, but only to the extent of such claim.
- (b) If any party is entitled to indemnification under Section 13(a), Apple will give written notice to LMT of any matters giving rise to a claim for indemnification; provided that the failure of any party entitled to indemnification hereunder to give notice as provided herein shall not relieve the indemnifying party of its obligations under this Section 13 except to the extent that the indemnifying party is actually prejudiced by such failure to give notice.

- (c) In case any action, proceeding or claim is brought against an indemnified party in respect of which indemnification is sought hereunder, LMT shall be entitled to participate and, unless in the reasonable judgment of legal counsel to the indemnified party a conflict of interest between it and LMT may exist with respect of such action, proceeding or claim, to assume the defense thereof with counsel reasonably satisfactory to the indemnified party. In the event that LMT fails, within thirty (30) days of receipt of any indemnification notice to notify, in writing, such person of its election to defend, settle or compromise, at its sole cost and expense, any action, proceeding or claim (or discontinues its defense at any time after it commences such defense), then the indemnified party may, at its option, defend, settle or otherwise compromise or pay such action or claim. In any event, unless and until LMT elects in writing to assume and does so assume the defense of any such claim, proceeding or action, the indemnified party's costs and expenses arising out of the defense, settlement or compromise of any such action, claim or proceeding shall be losses subject to indemnification hereunder. The indemnified party shall cooperate fully with LMT in connection with any negotiation or defense of any such action or claim by the indemnifying party and shall furnish to LMT all information reasonably available to the indemnified party which relates to such action or claim. LMT shall keep the indemnified party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. If LMT elects to defend any such action or claim, then the indemnified party shall be entitled to participate in such defense with counsel of its choice at its sole cost and expense. LMT shall not be liable for any settlement of any action, claim or proceeding effected without its prior written consent. Notwithstanding anything in this Section 13 to the contrary, LMT shall not, without the indemnified party's prior written consent, settle or compromise any claim or consent to entry of any judgment in respect thereof which imposes any future obligation on the indemnified party or which does not include, as an unconditional term thereof, the giving by the claimant or the plaintiff to the indemnified party of a release from all liability in respect of such claim.
- (d) The indemnification required by this Section 13 shall be made by periodic payments of the amount thereof during the course of investigation or defense, as and when bills are received or expense, loss, damage or liability is incurred, so long as the indemnified party irrevocably agrees to refund such moneys if it is ultimately determined by a court of competent jurisdiction that such party was not entitled to indemnification. The indemnity agreements contained herein shall be in addition to (i) any cause of action or similar rights of the indemnified party against LMT or others, and (ii) any liabilities LMT may be subject to pursuant to the law.

**14. Term, Termination and Suspension of Performance.**

- (a) The term of this Agreement shall commence on the date hereof and shall continue until terminated pursuant to Section 14(b).



- (b) Prior to the Closing Date (if different from the date of this Agreement), this Agreement may only be terminated as provided in this Section 14(b):
  - (i) Apple or LMT may terminate this Agreement by notice to the other party if, in the case of Apple, LMT, LMC or LMT-SPE is in material breach, and in the case of LMT, Apple is in material breach of this Agreement or any other Transaction Document unless the defaulting party cures such breach and all effects thereof within five (5) days of its receipt of notice thereof from the non-defaulting party.
  - (ii) Apple may terminate this Agreement by notice to LMT if Apple has reasonably determined that the conditions set forth in Section 9(d) are unlikely to be satisfied on or before August 31, 2010.
- (c) Termination of this Agreement by Apple pursuant to Section 14(b) shall not relieve LMT, LMC and LMT-SPE of their liabilities or obligations to Apple incurred prior to such termination.
- (d) The non-defaulting parties shall be entitled to exercise all remedies available at law and in equity, in addition to the remedies set forth in this Agreement and the other Transaction Documents, for a breach by any party of this Agreement or another Transaction Document.
- (e) LMT acknowledges and agrees that Apple will be unable to quantify all direct, indirect, consequential and special damages which Apple may incur as a result of (i) any breach by LMT of Section 1(b), 1(c), 2(b) or 8 of this Agreement or (ii) any breach of Section 1(d), 4(c), 4(f), 4(h), 8(g), 8(h), 9(f), 10, 11 or 13 of this Agreement, provided that if a breach in this clause (ii) is capable of cure and LMT has promptly initiated actions to cure such breach and has vigorously and continuously undertaken to cure such breach, such breach shall not have been cured within thirty (30) days of LMT learning thereof and, in the case of a breach listed in clause (i) or (ii), such breach could reasonably be expected to have a material adverse effect on Apple's rights under the Apple License Agreement (any such breach being a "**LMT Fundamental Breach**").
- (f) LMT-SPE acknowledges and agrees that Apple will be unable to quantify all direct, indirect, consequential and special damages which Apple may incur as a result of (i) any breach by LMT-SPE of Section 3(b) of this Agreement or (ii) any breach of Section 5(a), 5(c), 5(d) or 6 of this Agreement or Section 4.3 of the Apple License Agreement, provided that if a breach in this clause (ii) is capable of cure and LMT has promptly initiated actions to cure such breach and has vigorously and continuously undertaken to cure such breach, such breach shall not have been cured within thirty (30) days of LMT learning thereof and, in the case of a breach listed in clause (i) or (ii), such breach could reasonably be expected to have a material adverse effect on Apple's rights under the Apple License Agreement (any such breach being a "**LMT-SPE Fundamental Breach**").

- (g) LMT and LMT-SPE each agrees that the minimum amount of any such damages to which Apple shall be entitled, in the case of LMT upon the occurrence of a LMT Fundamental Breach and, in the case of LMT-SPE, upon the occurrence of a LMT-SPE Fundamental Breach shall be all amounts paid by Apple to or on behalf of LMT, LMC and LMT-SPE pursuant to all Transaction Documents plus interest thereon from the date of such payment until the date on which Apple recovers payment in full of from the defaulting LMT party all damages hereunder and under the other Transaction Documents at a rate per annum equal to the greater of (i) 10% or (ii) “prime rate” as reported in *The Wall Street Journal* in effect from time to time plus two percent. Apple may prove the minimum amount of damages set forth in this Section 14(f) by entering this Agreement into evidence in any action brought under this Agreement or the other Transaction Documents or in connection with the exercise of its rights under the security agreements delivered pursuant to Section 9(d)(vi) and (vii).

**15. Guaranty.**

- (a) LMT does hereby unconditionally guarantee to Apple and its assigns the prompt, full, and faithful performance and discharge by LMC and LMT-SPE (“**LMT-Subs**”) of each and every one of the terms, conditions, agreements, representation, warranties, guarantees and provisions on the part of the LMT-Subs contained in this Agreement and the other Transaction Documents.
- (b) The guaranty in this Section 15 (“**Guaranty**”) shall in all respects be a continuing, absolute, unconditional and irrevocable guaranty of payment and performance, and shall remain in full force and effect until all of the underlying obligations have been absolutely, irrevocably, and unconditionally fulfilled, performed or met, whether by LMT, or other person. LMT guarantees that the LMT-Subs’ obligations under the Transaction Documents will be paid and performed strictly in accordance with the terms hereof and thereof, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Apple.
- (c) LMT irrevocably waives the following, to the extent permitted by applicable law:
  - (i) notice of any changes, amendments or modifications to (x) any agreements between Apple and the LMT-Subs, including, but not limited to, any Transaction Document or to (y) any liabilities owing Apple by either LMT-Sub;
  - (ii) notice of presentment, demand, default, nonpayment or partial payments, protest, and all other notices or formalities to which an LMT-Sub might otherwise be entitled;
  - (iii) notice of prosecution of collection or remedies against an LMT-Sub or against the makers, endorsers, or other person liable on any such receivables, or against any security or collateral thereto appertaining;

- (iv) notice of any contents to the granting of indulgence or extension of time payment, the taking and releasing indebtedness or liabilities so guaranteed hereunder, or Apple's acceptance of partial payments thereon, or the settling, compromising or compounding in any of the same in such manner and at such times as Apple may deem advisable, without in any way impairing or affecting LMT's liability for the full amount thereof;
- (v) any requirement that Apple prosecute collection enforcement or other remedies against either LMT-Sub or against any person liable on any such agreements, obligation, indebtedness or liabilities so guaranteed, or enforce or resort to any security liens, collateral, or other rights or remedies thereto appertaining, before calling on LMT for payment; nor shall LMT's liability in any way be released or affected by reason of any failure or delay on Apple's part so to do;
- (vi) any requirement that suit be first instituted against an LMT-Sub, that any rights or remedies against an LMT-Sub be first exhausted or that an LMT-Sub be joined in any action brought by Apple against LMT under this Guaranty before calling on LMT for payment;
- (vii) any requirement that Apple inquire into the powers of either LMT-Sub, its officers, directors or agents, acting or purporting to act on such LMT-Sub's behalf with respect to the obligations described in this Guaranty; any such obligations created in reliance upon the professed exercise of such powers shall be guaranteed hereunder;
- (viii) any claims and other rights that it now has or may hereafter acquire against a either LMT-Sub or any other guarantor that arise from the existence, payment, performance or enforcement of LMT's obligations under this Guaranty, including any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Apple against an LMT-Sub, any other guarantor or any collateral that Apple now has or hereafter acquires for the obligations underlying this Guaranty, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from an LMT-Sub, directly or indirectly, in cash or other property, by setoff or in any other manner, payment or security on account of any such claim or other right;
- (ix) any rights and defenses of LMT under Section 580a of the California Code of Civil Procedure and any other rights and defenses that LMT may have by reason of protection afforded to an LMT-Sub pursuant to the antideficiency or other laws of California limiting or discharging an LMT-Sub's obligations, including 580a, 580b, 580d and 726 of the California Code of Civil Procedure; and
- (x) without limiting the generality of the foregoing or any other provision hereof, any rights and benefits that might otherwise be available to LMT under California Civil Code Section 2809, 2810, 2815, 2819, 2839, 2845, 2848, 2849, 2850, 2899 or 3433.

**16. Miscellaneous.**

- (a) All notices from one party to the other required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page hereof (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.
- (b) None of LMT, LMC or LMT-SPE shall assign, transfer, subcontract or otherwise delegate any of its obligations under this Agreement without Apple's prior written consent in each instance other than as a part of any merger, consolidation, or other statutory business combination or as a part of the sale of all or substantially all of their assets. Any attempted assignment, transfer, subcontracting or other delegation without such consent shall be void and shall constitute a breach of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of the parties' successors and assigns.
- (c) Each LMT, LMC and LMT-SPE acknowledges that any breach of this Agreement by it may cause irreparable harm to Apple or its affiliates and that the remedies for breach may include injunctive relief against such breach, in addition to damages and other available remedies. The prevailing party shall be entitled to the award of its reasonable attorneys' fees in any action to enforce this Agreement.
- (d) This Agreement, including the other Transaction Documents and the Nondisclosure Agreement referenced herein, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes and cancels all other prior agreements and understandings of the parties in connection with subject matter. The headings or titles in this Agreement are for purposes of reference only and shall not in any way affect the interpretation or construction of this Agreement.
- (e) No waiver of any of the provisions of this Agreement shall be valid unless in a written document, signed by the party against whom such a waiver is sought to be enforced, nor shall failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder. All amendments of this Agreement shall be made in writing and signed by both parties, and no oral amendment shall be binding on the parties.
- (f) This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. The parties hereby consent to jurisdiction and venue in the appropriate state and Federal courts sitting in the Northern District of California in any litigation between them arising out of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.

- (g) The invalidity of any provision in this Agreement shall not affect the validity of any other provision herein.
- (h) The parties have each been represented by counsel in the negotiation of this Agreement and have jointly prepared this Agreement with counsels' assistance. In the event of an ambiguity or a question of contract interpretation arises, no provision of this Agreement shall be construed based on any particular party having drafted the Agreement or such provision. Further, neither the history of negotiations between the parties, nor the fact that provisions of this Agreement (or portions thereof) have been inserted, deleted or modified in the course of preparing Agreement drafts, shall be used to construe the meaning of any provision.
- (i) In the event of a dispute, either party may commence litigation in the state or federal courts in Santa Clara County, California. The parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction upon final and conclusive judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Each party irrevocably waives to the fullest extent permitted by applicable law (i) any objection it may have to the laying of venue in any court referred to above; (ii) any claim that any such action or proceeding has been brought in an inconvenient forum; and (iii) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process.
- (j) Neither Apple nor any of LMT, LMC or LMT-SPE will issue press releases or other publicity regarding this Agreement or its subject matter without the prior written approval of the other parties.

[signatures follow]

**IN WITNESS WHEREOF**, the parties have executed this Master Transaction Agreement as of the date first shown above. Each of the persons signing this Agreement affirms that he or she is duly authorized to do so and thereby to bind the indicated entity. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**APPLE INC.**

Name: /s/ Zadesky  
Title: VP Product Design  
Date: 8/5/10  
  
Address: 1 Infinite Loop  
Cupertino, CA 95014  
  
Attn:

**LIQUIDMETAL TECHNOLOGIES,  
INC.**

/s/ Larry Buffington  
Name: LARRY BUFFINGTON  
Title: PRESIDENT/CEO  
Date: 8/10/2010  
  
Address: 30452 Esperanza  
Rancho Santa Margarita, CA  
92688  
Attn:

**LIQUIDMETAL COATINGS, LLC**

/s/ Larry Buffington  
Name: LARRY BUFFINGTON  
Title: PRESIDENT/CEO  
Date: 8/10/2010  
  
Address: 900 Rockmead Drive, Suite 240  
Kingwood, Texas 77339  
Attn: Chief Executive Officer

**CRUCIBLE INTELLECTUAL  
PROPERTY, LLC**

/s/ Tony Chung  
Name: Tony Chung  
Title: Chief Financial Officer  
Date: 8/4/10  
  
Address: 31441 Santa Margarita  
Pkwy., Suite A #247  
Rancho Santa Margarita, CA 92688 92688  
  
Attn: Chief Executive Officer

**ANNEX 1**

**Permitted Liens**

None

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## ANNEX 2

### Approvals

Consents/approvals are required from the following parties:

1. Enterprise Bank
  2. C3 Capital Partners, L.P.
  3. C3 Capital Partners II, L.P.
  4. Members and Board of Managers of LMC
  5. Board of Directors of LMT
  6. LLPG, Inc.
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**ANNEX 3**

**LMC Assignment Agreement**

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## ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the “*Assignment*”) is dated as of August 5, 2010 by and between LIQUIDMETAL COATINGS, LLC, a Delaware limited liability company (“*Assignor*”), and LIQUIDMETAL TECHNOLOGIES, INC., a Delaware corporation (“*Assignee*”).

THIS ASSIGNMENT is made with reference to the following facts and circumstances:

A. Assignor and Assignee have, together with Apple Inc., a California corporation, and Crucible Intellectual Property, LLC, a Delaware limited liability company (“*Crucible*”), entered into that certain Master Transaction Agreement dated August 5, 2010 (“*MTA*”) pursuant to which Assignor has agreed to distribute to Assignee all its right, title and interest in and to the LMT Technology (as defined in the MTA), now existing or hereafter arising until the date falling eighteen (18) months after the Closing Date (as defined in the MTA).

B. Assignee is willing to accept all of Assignor’s right, title and interest in the LMT Technology.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Assignor hereby transfers, conveys and assigns to Assignee, effective as of close of business on August 5, 2010 (the “*Effective Date*”), all of Assignor’s right, title and interest in, and obligations under the LMT Technology, whether now existing or hereafter arising until the date falling eighteen (18) months after the Effective Date (the “*LMC Intellectual Property Assets*”), including without limitation the patent applications listed on Schedule 1 hereto. Also effective as of the Effective Date, Assignee accepts this assignment of the LMC Intellectual Property Assets. Assignor hereby assigns, and Assignee hereby assumes, all (i) obligations under agreements included in the LMC Intellectual Property Assets and (ii) obligations arising as a matter of law with respect to the LMC Intellectual Property Assets. The assignment set forth herein shall not include the assignment of any rights of Assignor that Assignor acquires on or after the Effective Date under and with respect to: (i) the Exclusive License Agreement, dated as of the Effective Date, between Assignor and Crucible, or (ii) the Amended and Restated and Restated License and Technical Support Agreement, dated as of the Effective Date, between Assignor and Assignee.
  2. No Assignment. This Assignment may not be assigned by any party without the written consent of the other party (which consent may not be unreasonably withheld).
  3. Further Assurances. Each party to this Assignment shall execute and deliver to each other party all documents, and shall take all actions, reasonably required by such other party from time to time to confirm or effect the matters set forth in this Assignment, or otherwise to carry out the purposes of this Assignment.
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4. Entire Agreement. This Assignment, together with the MTA, constitute the entire agreement between the parties with respect to the assignment of the LMT Technology to Assignee.
5. Successors and Assigns. This Assignment shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto.
6. Counterparts. This Assignment may be executed in counterparts with the same effect as if the parties had executed one instrument, and each such counterpart shall constitute an original of this Assignment.
7. Severability. No provision of this Assignment that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions of this Assignment shall be severable.
8. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. The parties hereby consent to jurisdiction and venue in the appropriate state and Federal courts sitting in the Northern District of California in any litigation between them arising out of this Assignment. If any provision of this Assignment is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Assignment shall not be affected thereby.
9. Jurisdiction. In the event of a dispute, either party may commence litigation in the state or federal courts in Santa Clara County, California. The parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction upon final and conclusive judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Each party irrevocably waives to the fullest extent permitted by applicable law (i) any objection it may have to the laying of venue in any court referred to above; (ii) any claim that any such action or proceeding has been brought in an inconvenient forum; and (iii) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process.
10. Notices. All notices from one party to the other required or permitted under this Assignment shall be in writing, shall refer specifically to this Assignment, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page to the MTA (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.

[signatures follow]

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NOW, THEREFORE, the parties have executed this Assignment as of the date first written above.

ASSIGNOR:

LIQUIDMETAL COATINGS, LLC

By: /s/ Larry Buffington

Name: LARRY BUFFINGTON

Title: PRESIDENT / CEO

ASSIGNEE:

LIQUIDMETAL TECHNOLOGIES, INC.

By: /s/ Tony Chung

Name: Tony Chung

Title: Chief Financial Officer

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SCHEDULE 1 TO ASSIGNMENT

**Patents and Patent Applications**

<b>Grantor</b>	<b>Patent</b>	<b>Country</b>	<b>Date Filed</b>	<b>Serial No.</b>	<b>Patent No./Status</b>	<b>Issue Date</b>
Liquidmetal Coatings, LLC	Nickel Based Thermal Spray Powder	USA	2/1/10	61,300,318	Pending	—
Liquidmetal Coatings, LLC	Molybdenum-Containing Ferrous Alloy for Improved Thermal Spray Deposition and Hard-Facing	USA	4/28/10	61,315,661	Pending	—

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**ANNEX 4**

**LMT Contribution Agreement**

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## CONTRIBUTION AGREEMENT

THIS CONTRIBUTION AGREEMENT (the “*Agreement*”) is dated as of August 5, 2010 (the “*Effective Date*”) by and between LIQUIDMETAL TECHNOLOGIES, INC., a Delaware corporation (“*Assignor*”), and CRUCIBLE INTELLECTUAL PROPERTY, LLC., a Delaware limited liability company and wholly owned subsidiary of Assignor (“*Assignee*”).

THIS AGREEMENT is made with reference to the following facts and circumstances:

A. Assignor and Assignee are, with Apple Inc., Assignee, and Liquidmetal Coatings, LLC, parties to that certain Master Transaction Agreement, dated as of the Effective Date (“*MTA*”), pursuant to which Assignor has agreed to contribute to Assignee all its right, title and interest in and to the LMT Technology (as defined in the MTA) now existing or hereafter arising until the date falling eighteen (18) months after the Effective Date, including, without limitation, all trade secrets and all patent registrations, patent applications, license agreements, copyright applications and copyright registrations listed on Schedule 1 hereto.

B. Assignee is willing to accept all of Assignor’s right, title and interest in the LMT Technology.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

- Assignment. Assignor hereby transfers, conveys and assigns to Assignee, effective as of the close of business on the Effective Date, all of Assignor’s right, title and interest in the LMT Technology, now existing or hereafter arising until the date falling eighteen (18) months after the Effective Date, including, without limitation: all trade secrets and all patent registrations, patent applications, license agreements, and trademarks listed on Schedule 1 hereto. Also effective as of the Effective Date, Assignee accepts this assignment of the LMT Technology. In connection with the foregoing, Assignor hereby assigns and delegates, and Assignee hereby assumes, all (i) obligations under agreements included in the LMT Technology and (ii) obligations arising as a matter of law with respect to the LMT Technology. It is intended by the parties that the contribution of the LMT Technology being made by Assignor to Assignee hereunder will qualify as a tax-exempt transaction pursuant to Section 721 of the Internal Revenue Code of 1986, as amended.
  - No Assignment. This Agreement may not be assigned by any party without the written consent of the other party (which consent may not be unreasonably withheld).
  - Further Assurances. Each party to this Agreement shall execute and deliver to each other party all documents, and shall take all actions, reasonably required by such other party from time to time to confirm or effect the matters set forth in this Agreement, or otherwise to carry out the purposes of this Agreement.
-

4. Entire Agreement. This Agreement, together with the MTA, constitute the entire agreement between the parties with respect to the assignment of the LMT Technology to Assignee.
5. Successors and Assigns. This Agreement shall bind, and shall inure to the benefit of, the successors and assigns of the parties hereto.
6. Counterparts. This Agreement may be executed in counterparts with the same effect as if the parties had executed one instrument, and each such counterpart shall constitute an original of this Agreement.
7. Severability. No provision of this Agreement that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions of this Agreement shall be severable.
8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. The parties hereby consent to jurisdiction and venue in the appropriate state and Federal courts sitting in the Northern District of California in any litigation between them arising out of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.
9. Jurisdiction. In the event of a dispute, either party may commence litigation in the state or federal courts in Santa Clara County, California. The parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction upon final and conclusive judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Each party irrevocably waives to the fullest extent permitted by applicable law (i) any objection it may have to the laying of venue in any court referred to above; (ii) any claim that any such action or proceeding has been brought in an inconvenient forum; and (iii) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process.
10. Notices. All notices from one party to the other required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page to the MTA (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.

[signatures follow]



NOW, THEREFORE, the parties have executed this Contribution Agreement as of the date first written above.

ASSIGNOR:

LIQUIDMETAL TECHNOLOGIES, INC.

By: /s/ Larry Buffington

Name: LARRY BUFFINGTON

Title: PRESIDENT / CEO

ASSIGNEE:

CRUCIBLE INTELLECTUAL PROPERTY, LLC

By: /s/ Tony Chung

Name: Tony Chung

Title: Chief Financial Officer

## SCHEDULE 1 TO AGREEMENT

## Patents and Patent Applications

Patent	Country	Date Filed	Serial No.	Patent No./Status	Issue Date
Porous Amorphous Alloy for Catalysts	USA	09.10.84	06/649,070	4'608'319	08.26.86
Data Storage Using Amorphous Metallic Storage Medium	USA	11.23.87	07/123,924	4'888'758	12.19.89
Joining Using Bulk Alloys	USA	06.13.94	08/258,766	5'482'580	01.09.96
Composites of Bulk Alloy (Method)	USA	04.06.95	08/417,749	5'567'251	10.22.96
Diamond Composites of Bulk Alloys	USA	08.01.94	08/284,153	5'567'532	10.22.96
Die-Casting of Bulk Alloys	USA	02.16.96	08/602,899	5'711'363	01.27.98
Torsional Spring of Bulk Alloys	USA	08.26.96	08/702,918	5'772'803	06.30.98
Casting of Zr-base Bulk Alloys	USA	09.30.96	08/720,483	5'797'443	08.25.98
Composites of Bulk Alloys	USA	10.15.96	08/732,546	5'866'254	02.02.99
Die-Forming (Molding) of Bulk Alloys	USA	07.17.96	08/683,319	5'896'642	04.27.99
Replication with Bulk Alloys	USA	07.18.96	08/683,320	5'950'704	09.14.99
Composite Kinetic Energy Penetrator	USA	09.24.97	08/937,096	6'010'580	01.04.00
Vacuum Die-Casting	USA	01.23.98	09/012,347	6'021'840	02.08.00
Shaped-Charge Projectiles	USA	02.27.01	09/796,736	6'446'558	09.10.02
Yttrium Addition	USA	10.31.01	10/020,386	6'682'611	01.27.04
Golf Club Made of Bulk Alloy	USA	10.28.97	08/963,131	6'685'577	12.04.95

<b>Patent</b>	<b>Country</b>	<b>Date Filed</b>	<b>Serial No.</b>	<b>Patent No./Status</b>	<b>Issue Date</b>
Metal Frame	USA	06.07.02	10/165,466	6'771'490	08.03.04
Metal Frame	UK	06.07.02	02787184.7	1404884	07.11.07
Metal Frame	Germany	06.07.02	60221127.1	60221127	07.11.07
Metal Frame	China	06.07.02	028138414	ZL02813841.4	03.01.06
Metal Frame	Korea	06.07.02	2003-7016092	10-0908420	07.13.09
Metal Frame	India	06.07.02	2091DELNP 2003	Filed	—
Joining by Casting	USA	07.31.02	10/210,398	6'818'078	11.16.04
Joining by Casting	UK	07.31.02	02761216.7	1415010	01.07.09
Joining by Casting	Germany	07.31.02	02761216.7	60230769.4	01.07.09
Joining by Casting	Italy	07.31.02	48253BE2009	1415010	01.07.09
Joining by Casting	Japan	07.31.02	2003-517329	4243589	12.19.08
Joining by Casting	Korea	07.31.02	2004-7001265	0898657	05.13.09
Gliding Boards	USA	03.07.02	10/093,229	6'843'496	01.18.05
Gliding Boards	Japan	03.07.02	2002-570783	4216604	11.14.08
Gliding Boards	EPO	03.07.02	0270796722122	Filed	—
Forming Molded Articles	USA	09.06.02	10/236,792	6'875'293	04.05.05
Forming Molded Articles	China	09.06.02	028198131	ZL02819813.1	01.17.07
Forming Molded Articles	EPO	09.06.02	027802842	Filed	—
Forming Molded Articles	Japan	09.06.02	2003527141	Filed	—
Forming Molded Articles	Korea	09.06.02	20047003388	Filed	—
Cutting Tools	USA	03.07.02	10/093,245	6'887'586	05.03.05
Cutting Tools	Japan	03.03,09	2009-049448	Filed	—

<b>Patent</b>	<b>Country</b>	<b>Date Filed</b>	<b>Serial No.</b>	<b>Patent No./Status</b>	<b>Issue Date</b>
Cutting Tools	China	03.07.02	028080815	ZL02808081.5	04.23.08
Cutting Tools	Korea	03.07.02	2003-7011684	100874694	12.11.08
Improving Bulk Alloys	USA	10.02.02	10/263,965	7'008'490	03.07.06
Improving Bulk Alloys	Japan	10.02.02	2003532717	Filed	—
Improving Bulk Alloys	Korea	10.02.02	2004700498 8	Filed	—
Improving Bulk Alloys	China	10.02.02	0282185915	Filed	—
Thermoplastic Casting (TPC)	USA	01.31.03	10/355,490	7'017'645	03.28.06
Thermoplastic Casting (TPC)	EPO	01.31.03	0373510951 215	EP1499461	09.02.09
Thermoplastic Casting (TPC)	UK	01.31.03	03735109,5 1215	Filed	—
Thermoplastic Casting (TPC)	Germany	01.31.03	03735109.5- 1215	Filed	—
Thermoplastic Casting (TPC)	France	01.31.03	03735109.5- 1215	Filed	—
Thermoplastic Casting (TPC)	China	01.31.03	038043971	ZL03804397.1	11.02.07
Thermoplastic Casting (TPC)	Japan	01.31.03	20106769	Filed	—
Thermoplastic Casting (TPC)	Korea	01.31.03	2004701190 0	Filed	—
Foamed Structures	USA	05.20.03	10/442,707	7'073'560	07.11.06
Foamed Structures	UK	05.20.03	03729048.3 2122	1513637	05.12.08
Foamed Structures	Germany	05.20.03	037290483	60319700.0-.08	03.12.08
Foamed Structures	Korea	05.20.03	2004701877 3	Filed	—
Encapsulated Ceramic Armor	USA	03.11.03	10/386,728	7,157,158	01.02.07

<b>Patent</b>	<b>Country</b>	<b>Date Filed</b>	<b>Serial No.</b>	<b>Patent No./Status</b>	<b>Issue Date</b>
Investment Casting of Bulk-Solidifying Amorphous Alloys	USA	09.30.03	10/529,585	7'293'599	11.13.07
Retractable Memory Stick	USA	08.21.06	29/264,947	D563,954	03.11.08
Golf Club Made of Bulk-Solidifying Amorphous Metal	USA	11.25.05	11/288,492	7'357'731	04.15.08
Jewelry Made of Precious Amorphous Alloys and Method of Making Such	USA	10.05.05	10/534,375	7,412,848	08/19/08
Amorphous Alloy Stents	USA	11.18.03	10/534,374	7,500,987	03/10/09
Method of Making In-Situ Composites Comprising Amorphous Alloys	USA	02.11.04	10/545,123	7,520,944	03/21/09
Method of Making Dense Composites of Bulk-Solidifying Alloys and Articles Thereof	USA	06.17.03	10/521,424	7,560,001	7/14/2009
Continuous Casting of Bulk Solidifying Amorphous Alloys	USA	04.14.04	10/552,667	7,575,040	8/18/2009
Pt-Base Bulk Solidifying Amorphous Alloys	USA	12.22.03	10/540,337	7,582,172	9/1/2009
Continuous Casting of Foamed Bulk Amorphous Alloys	USA	04.14.04	10/552,496	7,588,071	9/15/2009
Continuous Casting of Foamed Bulk Amorphous Alloys	Korea	04.14.04	2005-7019638	Filed	—
Encapsulated Ceramic Armour	USA	12.18.06	11/612,328	7,604,876	10/20/2009
Method of Manufacturing Amorphous Metallic Foam	USA	01.20.04	10/542,438	7,621,314	11/24/2009
Fe-Base In-Situ Composite Alloys Comprising Amorphous Phase	USA	10.01.04	10/573,148	7,618,499	11/17/2009

<b>Patent</b>	<b>Country</b>	<b>Date Filed</b>	<b>Serial No.</b>	<b>Patent No./Status</b>	<b>Issue Date</b>
Antenna Structures Made of Bulk-Solidifying Amorphous Alloys	USA	02.17.06	11,844431	Filed	—
Antenna Structures Made of Bulk	UK	02.17.06	07171812	2439852	06/10/2009
Antenna Structures Made of Bulk	China	02.17.06	2006-800088016	Filed	—
Antenna Structures Made of Bulk	India	02.17.06	6490DELM P2007	Filed	—
Bulk-Solidifying Alloys with Improved Mechanical Properties	USA	12.16.05	11,303,844	Filed	—
High Durability Structures of Amorphous Alloy with a Method of Forming	USA	08.13.04	10,565,839	Filed	—
Medical Implants	USA	08.19.03	10,524,954	Filed	—
Medical Implants	EPO	08.19.03	03788672.8	Filed	—
Metallic Dental Prostheses Made of Bulk-Solidifying Amorphous Alloys and Articles Thereof	USA	08.05.03	10,523,465	Filed	—
Au-Base Bulk Solidifying Amorphous Alloys	USA	10.17.05	11,576,922	Filed	—
Au-Base Amorphous Alloys	EPO	10.17.05	05815431.1	1 805 337	05.05.10
Au-Base Amorphous Alloys	UK	10.17.05	05815431.1	Filed	—
Au-Base Amorphous Alloys	Germany	10.17.05	05815431.1	60-2005021136.5	—
Au-Base Amorphous Alloys	France	10.17.05	05815431.1	Filed	—
Au-Base Amorphous Alloys	Switzerland	10.17.05	05815431.1	Filed	—
Au-Base Amorphous Alloys	Netherlands	10.17.05	05815431.1	Filed	—
Au-Base Amorphous Alloys	Austria	10.17.05	05815431.1	Filed	—

<b>Patent</b>	<b>Country</b>	<b>Date Filed</b>	<b>Serial No.</b>	<b>Patent No./Status</b>	<b>Issue Date</b>
All-Base Amorphous Alloys	Spain	10.17.05	05815431.1	Filed	—
Au-Base Amorphous Alloys	Turkey	10.17.05	05815431.1	Filed	—
Current Collector Plates Made of Bulk-Solidifying Amorphous Alloys	USA	03.18.04	10,548,979	Filed	—
Current Collector Plates Made of Bulk-Solidifying Amorphous Alloys	Japan	10.18.04	2006-507442	Filed	—
Amorphous Alloy Hooks and Methods of Making Such Hooks	USA	10.24.05	11,577,081	Filed	—
Metallic Mirrors Formed from Amorphous Alloys	USA	10.19.05	11,577,052	Filed	—
Tin-Addition to Amorphous Alloy	USA	06.12.09	61,354,620	Filed	—
Tin-Addition to Amorphous Alloy	Korea	07.23.09	200910-2009-0067226	Filed	—
Amorphous Alloy Armor	USA	11.09.09	12,615,097	Filed	—
Hermetic Seal	USA	01.04.10	61,335,294	Filed	—
Nickel Based Thermal Spray Powder Imprint Lithograph with Amorphous Metallic Materials	USA	02.01.10	61,300,381	Filed	—
Thermoplastic Forming Methods for Amorphous Alloys	USA	02.17.10	61,338,138	Filed	—
Ni-Free Beryllium Containing Amorphous Alloy	USA	04.28.10	61,329,054	Filed	—
Molybdenum-Containing Ferrous Alloy for Improved Thermal Spray Deposition and Hard Facing	USA	03.19.10	61,315,661	Filed	—

SCHEDULE 1 TO AGREEMENT (CONTINUED)

Trademarks and Trademark Applications

Ref No.	Mark/ Title	App. No./ Filing Date	Reg No./ Issue Date	Status	Inventors/Goods	U.S./ Foreign
LQUID-002T	LIQUIDMETAL (and design)	75/389,648 11/13/1997	2,435,529 03/13/2001	<b>REGISTERED</b> RENEWAL DUE 03/13/2011	CLASS 028: GOLF EQUIPMENT, NAMELY, GOLF CLUBS, GOLF BALLS AND GOLF BAGS	U
LQUID-003T	LIQUIDMETAL (stylized)	75/389,645 11/13/1997	2,480,241 08/21/2001	<b>REGISTERED</b> RENEWAL DUE 08/21/2011	CLASS 028: GOLF EQUIPMENT, NAMELY, GOLF CLUBS, GOLF BALLS AND GOLF BAGS	U
LQUID-004T	LIQUIDMETAL (and design)	75/358,134 09/16/1997	2,312,889 02/01/2000	<b>REGISTERED</b> RENEWAL DUE 02/01/2020	CLASS 006: AMORPHOUS METALS	U
LQUID-005T	LIQUIDMETAL GOLF (and design)	75/351,059 09/03/1997	2,494,583 11/02/2001	<b>REGISTERED</b> RENEWAL DUE 10/02/2011	CLASS 028: TOYS AND SPORTING GOODS, NAMELY, GOLF CLUBS, GOLF BALLS, GOLF CLUB SHAFTS, GOLF GRIPS, GOLF BAGS, TENNIS RACKETS	U
LQUID-008T	LIQUIDMETAL GOLF	75/498,778 06/08/98	2,714,787 05/13/2003	<b>REGISTERED</b> RENEWAL DUE 05/13/2013	CLASS 025: CLOTHING, NAMELY, HATS, PANTS, SHIRTS, SHORTS, SWEATERS, JACKETS AND FOOTWEAR	U
LQUID-013JP (Japan)	LIQUIDMETAL (and design)	016900/1997 02/18/1997	4149191 05/22/1998	<b>REGISTERED</b> RENEWAL DUE 05/22/2018	CLASS 006: AMORPHOUS METALS	F
LQUID-013KS (South Korea)	LIQUIDMETAL (and design)	97-57058 12/10/1997	447777 05/13/1999	<b>REGISTERED</b> RENEWAL DUE 05/13/2019	CLASS 006: ZIRCONIUM AND TITANIUM BASED ALLOYS	F
LQUID-014HK2 (Hong Kong)	LIQUIDMETAL (and design)	793/2001 01/15/2001	B6279/2002 05/24/2002	<b>REGISTERED</b> RENEWAL DUE 01/15/2018	CLASS 028: GAMES AND PLAYTHINGS, GYMNASIIC AND SPORTING ARTICLES	F
LQUID-014JP (Japan)	LIQUIDMETAL (and design)	147446/1997 08/07/1997	4496160 08/03/2001	<b>REGISTERED</b> RENEWAL DUE 08/03/2011	CLASS 028: SPORTING, ATHLETIC AND GYMNASIIC IMPLEMENTS; GAME MACHINES AND APPARATUS; GO GAME EQUIPMENT (JAPANESE BOARD GAME); SHOGI GAME EQUIPMENT (JAPANESE CHESS); DICE; SUGOROKU GAMES (JAPANESE PARCHEESI); DICE CUPS; DIAMOND GAMES; CHESS GAMES; CHECKERS; CONJURING APPARATUS; DOMINOES; MAHJONG EQUIPMENT; BILLIARD APPARATUS; TOYS; DOLLS; TOYS FOR DOMESTIC PETS; WAX FOR SKIS; FISHING TACKLE	F
LQUID-014KS (South Korea)	LIQUIDMETAL (and design)	97-57059 12/10/1997	446249 04/14/1999	<b>REGISTERED</b> RENEWAL DUE 04/14/2019	CLASS 028; GOLF CLUBS, GOLF BALLS AND GOLF BAGS	F
LQUID-014SG (Singapore)	LIQUIDMETAL (and design)	S115181/97 12/15/1997	T97/15181Z 12/15/1997	<b>REGISTERED</b> RENEWAL DUE 12/15/2017	CLASS 028: SPORTING GOODS	F



LQUID-014TI (Taiwan)	LIQUIDMETAL (and design)	75/184,482 10/21/1996	854224 06/01/1999	<b>REGISTERED</b> RENEWAL DUE 05/31/2019	CLASS 028: SPORTING GOODS, NAMELY BADMINTON RACKETS, GOLF CLUB HEADS, GOLF CLUB SHAFTS, GOLF CLUBS, GOLF CLUB FACE PLATE INSERTS, FIELD HOCKEY STICKS, ICE HOCKEY STICKS AND TENNIS RACKETS	F
LQUID-015AU (Australia)	LIQUIDMETAL (and design)	750504 12/08/1997	750504 02/11/2000	<b>REGISTERED</b> RENEWAL DUE 12/08/2017	CLASS 028; SPORTING GOODS	F
LQUID-015CA (Canada)	LIQUIDMETAL (and design)	864571 12/18/1997	517,008 09/24/1999	<b>REGISTERED</b> RENEWAL DUE 09/24/2014	CLASS 006: AMORPHOUS METALS CLASS 028: SPORTING GOODS, NAMELY GOLF CLUBS, GOLF BALLS AND GOLF BAGS	F
LQUID-015EU (Europe)	LIQUIDMETAL (and design)	698977 12/08/1997	000698977 09/01/1999	<b>REGISTERED</b> RENEWAL DUE 12/08/2017	CLASS 006: AMORPHOUS METALS CLASS 028: SPORTING GOODS	F
LQUID-018JP (Japan)	LIQUIDMETAL (and design)	016901/1997 02/18/1997	4149192 05/22/1998	<b>REGISTERED</b> RENEWAL DUE 05/22/2018	CLASS 006: AMORPHOUS METALS	F
LQUID-019JP (Japan)	LIQUIDMETAL GOLF (and design)	0167209/1997 10/13/1997	4314788 09/10/1999	<b>REGISTERED</b> RENEWAL DUE 09/10/2019	CLASS 028: TOYS; SPORTING, ATHLETIC AND GYMNAS TIC IMPLEMENTS	F
LQUID-020JP (Japan)	LIQUIDMETAL (shaded letters)	147447/1997 08/07/1997	4470501 04/27/2001	<b>REGISTERED</b> RENEWAL DUE 04/27/2011	CLASS 028: SPORTING, ATHLETIC AND GYMNAS TIC IMPLEMENTS; GAME MACHINES AND APPARATUS; <i>GO</i> GAME EQUIPMENT (JAPANESE BOARD GAME); <i>SHOGI</i> GAME EQUIPMENT (JAPANESE CHESS); DICE; <i>SUGOROKU</i> GAMES (JAPANESE PARCHEESI); DICE CUPS; DIAMOND GAMES; CHESS GAMES; CHECKERS; CONJURING APPARATUS; DOMINOES; MAHJONG EQUIPMENT; BILLIARD APPARATUS; TOYS; DOLLS; TOYS FOR DOMESTIC PETS; WAX FOR SKIS; FISHING TACKLE	F
LQUID-027T	LIQUIDMETAL	75/434,845 02/17/1998	2,435,558 03/13/2001	<b>REGISTERED</b> RENEWAL DUE 03/13/2011	GLASS 028: GOLF PRODUCTS, NAMELY GOLF CLUBS, GOLF BALLS AND GOLF BAGS	U
LQUID-051U	LIQUIDMETAL		107559 08/03/2001	<b>CA REGISTERED</b> RENEWAL DUE 08/23/2011	GOLF EQUIPMENT; GOLF PRODUCTS; GOLF CLUBS; TOYS AND SPORTING GOODS	U
LQUID-057AU (Australia)	LIQUIDMETAL	946649 03/11/2003	946649 12/07/2006	<b>REGISTERED</b> RENEWAL DUE 03/11/2013	CLASS 028: SPORTING GOODS, NAMELY TENNIS RACKETS, SKIS, SKI POLES AND SNOW BOARDS	F
LQUID-057CA (Canada)	LIQUIDMETAL	1,186,331 08/01/2003	666,056 06/14/2006	<b>REGISTERED</b> RENEWAL DUE 06/14/2021	CLASS 006: AMORPHOUS METALS CLASS 025: WEARING APPAREL, NAMELY SHIRTS, T-SHIRTS, SHORTS, PANTS, SWEATSHIRTS, SWEATPANTS, HATS, VISORS, SHOES AND BELTS CLASS 028: SPORTING GOODS NAMELY SPORTING KNIVES, TENNIS RACKETS, TENNIS BAGS AND TENNIS CASES, GOLF CLUBS, GOLF BALLS AND GOLF BAGS	F

LQUID-057EU (Europe)	LIQUIDMETAL	003091501 03/11/2003	003091501 05/31/2005	<b>REGISTERED</b> RENEWAL DUE 03/11/2013	CLASS 008: SPORTING KNIVES CLASS 025: WEARING APPAREL, INCLUDING SHIRTS, T-SHIRTS, SHORTS, PANTS, SWEATSHIRTS, SWEATPANTS, HATS, VISORS, SHOES AND BELTS CLASS 028: SPORTING GOODS, NAMELY, TENNIS RACKETS; AND MATERIALS USED IN SKIS, SKI POLES AND SNOW BOARDS	F
LQUID-057HK (Hong Kong)	LIQUIDMETAL	300057717 08/24/2004		<b>REGISTERED</b> RENEWAL DUE 08/04/2013	CLASS 028: SPORTING GOODS, NAMELY, TENNIS RACKETS, SKIS, SKI POLES, SNOWBOARDS, TENNIS BAGS, TENNIS CASES, GOLF CLUBS, GOLF BALLS AND GOLF BAGS	F
LQUID-057HU (Hungary)	LIQUIDMETAL	M 03 03314	183038 12/13/2005	<b>REGISTERED</b> RENEWAL DUE 08/05/2013	CLASS 028: SPORTING GOODS, NAMELY, TENNIS RACKETS, TENNIS BAGS, TENNIS CASES, SPORTING KNIVES, AND MATERIALS USED IN SKIS, SKI POLES AND SNOWBOARDS	F
LQUID-057PL (Poland)	LIQUIDMETAL	Z-268178 08/04/2003	176076 06/27/2006	<b>REGISTERED</b> RENEWAL DUE 08/04/2013	CLASS 028: SPORTING GOODS, TENNIS RACKETS, SKIS, SKI POLES, SNOWBOARDS, SPORTING KNIVES, TENNIS BAGS, TENNIS CASES, GOLF CLUBS, GOLF BALLS AND GOLF BAGS	F
LQUID-057MX (Mexico)	LIQUIDMETAL	613402 08/06/2003	843878 07/22/2004	<b>REGISTERED</b> RENEWAL DUE 08/06/2013	CLASS 028: SPORTING GOODS, TENNIS RACKETS, SKIS, SKI POLES, SNOWBOARDS, SPORTING KNIVES, TENNIS BAGS, TENNIS CASES, GOLF CLUBS, GOLF BALLS AND GOLF BAGS	F
LQUID-057RC2 (China)	LIQUIDMETAL	6079477 05/30/2007		<b>PENDING</b> APPLICATION REJECTED; FILED RESPONSE IN 08/2009; TAKES APPROX. 18 MONTHS TO GET DECISION	CLASS 6: AMORPHOUS METALS, METAL CASTINGS AND METAL HINGES FOR CELLULAR PHONES	F

LQUID-057RC3 (China)	LIQUIDMETAL	6079478 05/30/2007		<b>PENDING</b> APPLICATION REJECTED; FILED RESPONSE IN 08/2009; TAKES APPROX. 18 MONTHS TO GET DECISION	CLASS 9: CELLULAR TELEPHONES, PERSONAL DATA ASSISTANTS, MP3 PLAYERS, COMPUTER MEMORY HARDWARE, PERSONAL DIGITAL ASSISTANTS, PORTABLE LISTENING DEVICES, CAMCORDERS, CINEMATOGRAPHIC CAMERAS, PHOTOGRAPHIC CAMERAS, COMPACT DISC PLAYERS, COMPUTERS, PRINTERS FOR USE WITH COMPUTERS, MAGNETIC DISKS, GAUGES, LOUDSPEAKERS, MEASURING INSTRUMENTS, PORTABLE TELEPHONES, PROTECTIVE HELMETS, PROTECTIVE HELMETS FOR SPORTS, RADIOS, VEHICLE RADIOS, AUDIO AND VIDEO RECEIVERS, SOUND RECORDING APPARATUS, SPECTACLE FRAMES, SPECTACLES/OPTICS, PERSONAL STEREOS, SUNGLASSES, TELEPHONE APPARATUS, BULLET- PROOF VESTS, VIDEO TELEPHONES, WORKMAN'S PROTECTIVE FACE-SHIELDS, AND PROTECTION DEVICES AGAINST X-RAYS.	F
LQUID-057RU (Russia)	LIQUIDMETAL	2003715095 08/05/2003	297443 10/31/2005	<b>REGISTERED</b> RENEWAL DUE 08/05/2013	CLASS 028: SPORTING GOODS, NAMELY, TENNIS RACKETS, SKIS, SKI POLES, SNOWBOARDS, SPORTING KNIVES, TENNIS BAGS AND TENNIS CASES	F
LQUID-057T	LIQUIDMETAL	78/224,925 03/12/2003	3,159,720 10/17/2006	<b>REGISTERED</b> 8 & 15 DECL. DUE 10/17/2012	CLASS 008: SPORTING KNIVES CLASS 028: SPORTING GOODS, NAMELY, TENNIS RACKETS; AND MATERIALS USED IN SKIS, SKI POLES AND SNOW BOARDS	U
LQUID-058T	LIQUIDMETAL (stylized)	78/225,717 03/14/2003	3,230,417 04/17/2007	<b>REGISTERED</b> 8 & 15 DECL. DUE 04/17/2013	CLASS 008: SPORTING KNIVES CLASS 025: WEARING APPAREL, NAMELY, SHIRTS, T-SHIRTS, SHORTS, PANTS, SWEATSHIRTS, SWEATPANTS, HATS, VISORS, SHOES AND BELTS CLASS 028: SPORTING GOODS, NAMELY, TENNIS RACKETS; AND MATERIALS USED IN SKIS, SKI POLES AND SNOW BOARDS	U
LQUID-059T	PURE ENERGY, PERFECT POWER	78/224,935 03/12/2003	2,955,613 05/24/2005	<b>REGISTERED</b> 8 & 15 DECL. DUE 05/24/2011	CLASS 028: SPORTING GOODS, NAMELY TENNIS RACKETS, SKIS, SKI POLES AND SNOW BOARDS	U

LQUID-064T	LIQUIDMETAL			NOT FILED AWAITING CLIENT INSTRUCTIONS	CLASS 025: CLOTHING FOR MEN; WOMEN; JUNIORS; AND CHILDREN, NAMELY SHIRTS, INCLUDING T-SHIRTS; POLO SHIRTS; CASUAL; DRESS; TOPS, BLOUSES; HALTER TOPS; TANK TOPS, SWEATERS, PANTS; INCLUDING CASUAL; SLACKS; AND JEANS, SUITS, DRESSES, INCLUDING CASUAL AND EVENING GOWNS, SKIRTS, COATS AND JACKETS, INCLUDING BLAZERS, UNIFORMS, SLEEPWEAR, INCLUDING PAJAMAS AND NIGHTGOWNS, ROBES, BEACHWEAR AND SWIMWEAR, INCLUDING BATHING SUITS; SWIM TRUNKS; BIKINIS; AND WRAPS, HATS, LOUNGEWEAR, INCLUDING SWEATS; SWEATSHIRTS AND THE LIKE; UNDERWEAR; INCLUDING BOXERS; BRIEFS, PANTIES AND THE LIKE.	U
LQUID-067T	LIQUIDMETAL	78/507,702 18/28/2004	3,610,314 04/21/2009	<b>REGISTERED</b> 8 & 15 DECL. DUE 04/21/2015	CLASS 006: METAL CASTINGS AND METAL HINGES FOR CELLULAR PHONES CLASS 014: JEWELRY	U
LQUID-069T	LIQUIDMETAL (stylized)	78/911,296 06/19/2006	3,633,282 06/02/2009	<b>REGISTERED</b> 8 & 15 DECL. DUE 06/02/2015	CLASS 009: CELLULAR TELEPHONES, PERSONAL DATA ASSISTANTS, MPS PLAYERS, AND COMPUTER MEMORY HARDWARE CLASS 014: WATCHES	U
LQUID-070EU (Europe)	LIQUIDMETAL	005157359 06/23/2006	005157359 08/29/2007	<b>REGISTERED</b> RENEWAL DUE: 06/23/2016	CLASS 009: PERSONAL DIGITAL ASSISTANTS, PORTABLE LISTENING DEVICES, CAMCORDERS, CINEMATOGRAPHIC CAMERAS, PHOTOGRAPHIC CAMERAS, COMPACT DISC PLAYERS, COMPUTERS, PRINTERS FOR USE WITH COMPUTERS, MAGNETIC DISKS, GAUGES, LOUDSPEAKERS, MEASURING INSTRUMENTS, PORTABLE TELEPHONES, PROTECTIVE HELMETS, PROTECTIVE HELMETS FOR SPORTS, RADIOS, VEHICLE RADIOS, AUDIO AND VIDEO RECEIVERS, SOUND RECORDING APPARATUS, SPECTACLE FRAMES, SPECTACLES/OPTICS, PERSONAL STEREOS, SUNGLASSES, TELEPHONE APPARATUS, BULLET- PROOF VESTS, VIDEO TELEPHONES, WORKMAN'S PROTECTIVE FACE-SHIELDS, AND PROTECTION DEVICES AGAINST X-RAYS CLASS 010: MEDICAL DEVICES, NAMELY, HIP JOINT ORTHOPEDIC IMPLANTS AND KNEE BRACES; DENTAL INSTRUMENTS, NAMELY, PICKS, BURRS AND MIRRORS. CLASS 014: WATCHES, CLOCKS AND JEWELRY	F

LQUID-070HK (Hong Kong)	LIQUIDMETAL	301217330 10/09/2008		<b>PENDING</b> APPLICATION PUBLISHED; AWAITING CERTIFICATE OF REGISTRATION	CLASS 14: WATCHES, CLOCKS AND JEWELRY	F
LQUID-070JP (Japan)	LIQUIDMETAL	2008-84917 10/20/2008	5233668 05/22/2009	<b>REGISTERED</b> RENEWAL DUE: 0/22/2019	CLASS 14: WATCHES, CLOCKS AND JEWELRY	F

**License Agreements**

Amended and Restated License Agreement, dated September 1, 2001, by and between California Institute of Technology and Assignor.

**ANNEX 5**

**Payoff Letter**

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**FORM OF PAYOFF LETTER**

July 20, 2010

Liquidmetal Technologies, Inc. ("LMT")  
30452 Esperanza  
Rancho Santa Margarita, CA 92688  
Attention: Tony Chung  
([tony.chung@liquidmetal.com](mailto:tony.chung@liquidmetal.com))

WC Collateral Agent LLC  
450 Seventh Avenue, Suite 509  
New York, NY 10123  
Attention: Dwight Mamanteo  
([dwight@wynnefieldcapital.com](mailto:dwight@wynnefieldcapital.com))

Re: Payoff of the 8% Senior Secured Convertible Note (the "Note") dated May 1, 2009 by LMT in favor of \_\_\_\_\_ ("Creditor")

Dear LMT Management:

LMT has offered to pay Creditor in full of all indebtedness of LMT under the Note on **July 23, 2010** (the "Payoff Date").

Upon receipt of (i) immediately available funds in the amount of \_\_\_\_\_ (the "Payoff Amount"), representing all unpaid principal, interest, fees, costs and expenses under the Note, as fully set forth on attached Exhibit A, and (ii) a fully executed counterpart to this letter:

1. All indebtedness to Creditor under the Note for principal, interest, fees, charges, costs, expenses and all other amounts shall have been paid in full.
2. Creditor's security interest in all of LMT's and LMT's subsidiaries' property shall automatically be released, terminated and satisfied, and Creditor shall execute and deliver (and hereby authorizes and directs, WC Collateral Agent LLC, as collateral agent for Creditor's security interest, to execute and deliver) such releases, termination statements or directions to terminate as LMT may reasonably request, which must be prepared and filed by LMT at LMT's sole cost and expense.
3. LMT is authorized by Creditor to file UCC termination statements to terminate Creditor's security interest in LMT's personal property Collateral.
4. The Note, each agreement executed pursuant thereto, and each credit facility extended by Creditor thereunder shall be terminated and the obligations of each party thereunder shall cease to be of any further force or effect.

The Payoff Amount should be sent as follows:

Bank Name:	_____
Bank Address:	_____
Bank Phone #:	_____
Account Name:	_____
Swift code:	_____
Routing #:	_____
Account #:	_____

5. Creditor shall concurrently herewith deliver (i) the original Note (or an affidavit and indemnity of lost note in a form reasonably acceptable to the Debtor) to WC Collateral Agent LLC pursuant to the escrow letter provided by the Debtor, and (ii) a copy of such escrow letter, signed by Creditor, to WC Collateral Agent LLC and to the Debtor.
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6. Creditor shall confirm to LMT and WC Collateral Agent LLC that it has received payment in full of the Payoff Amount (as such amount may be increased as set forth below).

7. Creditor understands that the information contained in this letter is non-public information.

By executing and delivering a copy of this letter to LMT, Creditor hereby represents and warrants that it holds all right, title and interest in and to the Note and all payments of principal, interest, fees and other charges thereunder, in each case, free and clear of all interests therein securing an obligation owed by Creditor, or any claim against Creditor, whether such interest is based on common law, statute or contract, including liens, security interests, pledges, hypothecations, statutory trusts and other encumbrances affecting the Note. Creditor shall defend, indemnify and hold LMT harmless from and against any and all liability, loss, expense (including, without limitation, attorneys' fees) or claims incurred by LMT as a result of the foregoing representation and warranty being inaccurate.

In the event that Creditor does not receive the Payoff Amount in immediately available funds on or before the Payoff Date, an additional per diem amount of \_\_\_\_\_ shall be added to the Payoff Amount for accrued interest. In the event that Creditor does not receive the Payoff Amount in immediately available funds on or before 5:00 p.m. (Eastern Daylight Time) on August 31, 2010, then this letter will automatically terminate and be void and of no further force and effect.

Creditor hereby absolutely and unconditionally releases and forever discharges LMT, and any and all participants, parent corporations, subsidiary corporations, affiliated corporations, insurers, indemnitors, successors and assigns thereof, together with all of the present and former directors, officers, agents and employees of any of the foregoing, from any and all claims, demands or causes of action of any kind, nature or description, whether arising in law or equity or upon contract or tort or under any state or federal law or otherwise, which Creditor has had, now has or has made claim to have against any such person for or by reason of any act, omission, matter, cause or thing whatsoever arising from the beginning of time to and including the date of this letter, whether such claims, demands and causes of action are matured or unmatured or known or unknown. It is the intention of Creditor in providing this release that the same shall be effective as a bar to each and every claim, demand and cause of action specified, and in furtherance of this intention it waives and relinquishes all rights and benefits under Section 1542 of the Civil Code of the State of California, 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 MIGHT HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

Creditor acknowledges that it may hereafter discover facts different from or in addition to those now known or believed to be true with respect to such claims, demands, or causes of action and agree that this instrument shall be and remain effective in all respects notwithstanding any such differences or additional facts. Creditor understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. Notwithstanding anything herein to the contrary, nothing in the foregoing release will release Debtor from any obligations that it may have to Creditor under the terms of the Series A Preferred Stock and Warrants of the Debtor held by the Creditor.

This Payoff Letter shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. The parties hereby consent to jurisdiction and venue in the appropriate state and Federal courts sitting in the Northern District of California in any litigation between them arising out of this Payoff Letter.

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This letter may be signed and exchanged in counterparts, all of which when taken together shall constitute one and the same agreement. Signature by facsimile will also bind the parties to this letter.

Very truly yours,

---

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGED AND AGREED TO:**

**LIQUIDMETAL TECHNOLOGIES, INC.**

By \_\_\_\_\_  
Name:  
Title:

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Exhibit A

Principal

Interest

**TOTAL**

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**ANNEX 6**

**Apple License**

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**EXCLUSIVE LICENSE AGREEMENT**

This Exclusive License Agreement (“Agreement”) is entered into as of August 5, 2010, by and between Apple Inc., a California corporation having an address of 1 Infinite Loop, Cupertino, CA 95014 (“Apple”), and Crucible Intellectual Property, a Delaware limited liability company having an address of 31441 Santa Margarita Pkwy., Suite A #247, Rancho Santa Margarita, California 92688 (“Crucible”). Either Apple or Crucible may be referred to individually herein as a “Party”, and Apple and Crucible may be referred to collectively herein as the “Parties”.

**RECITALS**

**WHEREAS**, Apple, LMT, LMC and Crucible have entered into that certain Master Transaction Agreement, dated as of August 5, 2020 (“MTA”) and this Agreement is entered into pursuant the MTA.

**NOW THEREFORE**, the Parties hereby agree as follows:

**ARTICLE 1  
DEFINITIONS**

Unless a term is defined in this Agreement, all defined terms shall have the meanings specified in the Master Transaction Agreement.

- 1.1. **“Agreement”** shall mean this License Agreement.
- 1.2. **“Subsidiary”** with respect to a Party shall mean any corporation, partnership or other entity, now or hereafter, (i) greater than fifty percent (50%) of whose outstanding shares or securities entitled to vote for the election of directors or similar managing authority is directly or indirectly owned or controlled by a Party hereto, or (ii) a beneficial interest of greater than fifty percent (50%) coupled with ownership or control (either direct or indirect) of greater than fifty percent (50%) of whatever interest represents the right to make executive and/or operational decisions for such entity; provided, however, that in each case such corporation, partnership or other entity shall be deemed to be a Subsidiary only so long as all requisite conditions of being a Subsidiary are met.
- 1.3. **“Effective Date”** shall mean the date of this Agreement.
- 1.4. **“Licensed Products”** shall mean any product made or sold by or on behalf of Apple Inc. in the field of use of Consumer Electronic Products.
- 1.5. **“Licensees”** shall mean and include individually and collectively Apple, and any Subsidiary thereof
- 1.6. **“Licensor”** shall mean Crucible.

**ARTICLE 2**  
**GRANT, PAYMENT, and ENFORCEMENT OF RIGHTS**

- 2.1 **Exclusive License Grant.** Licensor grants to Licensee a fully paid-up, royalty-free, irrevocable, perpetual, worldwide exclusive license and sublicense, with the right to grant sublicenses, under the LMT Technology in the exclusive field of use of Consumer Electronic Products, to use, reproduce, publish, display, distribute, perform, exploit and disclose the LMT Technology and to make and have made, assemble and have assembled, use, sell, offer to sell, import and offer to import, license and offer to license, distribute and offer to distribute, repair, reconstruct, practice, and maintain Licensed Products, and in connection with its exercise of the foregoing license, to perform any act or step that incorporates, utilizes, embodies or reflects the LMT Technology, including without limitation any such activities that would, absent a license, subject a person or other legal entity to a claim of direct infringement, contributory infringement, inducing infringement, or any other type of infringement. Licensor expressly forfeits the right to use, reproduce, publish, display, distribute, perform, exploit and disclose the LMT Technology in the exclusive field of use of Consumer Electronic Products. Licensee's exclusive rights in the field of use of Consumer Electronic Products shall be subject to the rights granted to LMT in Section 2.2 of the LMT License Agreement.
- 2.2 **Payment Terms.** In consideration of the licenses granted by Licensor hereunder, Apple will pay to or on behalf of Licensor (a) an aggregate amount equal to \$[\*] (the "Initial Payment") on the Effective Date and (b) a final payment in an amount equivalent to \$[\*] less the Initial Payment and repayment to Apple of \$[\*] in advances made to LMT prior to the date of this Agreement (the "Final Payment"), which shall be payable ninety (90) days after the Closing Date conditioned on LMT's full and complete compliance with its obligations under the Statement of Work entitled "LMT-Apple Initial Support Period" under Technology Development Agreement of even date herewith between LMT and Apple. The Initial Payment will be deemed to be distributed by Licensor to LMT and will be paid by Licensee directly to selected creditors of LMT and LMT in accordance with the Escrow Agreement of even date herewith among U.S. Bank, Licensor, Licensee, and LMT. The Final Payment will be paid directly by Licensee to LMT and will be deemed to be a distribution by Licensor to LMT.

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[\*] = CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY BRACKETS AND AN ASTERISK, HAS BEEN OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO RULE 24B-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

- 2.3 **Enforcement of Rights.** Licensor grants to Licensee the exclusive right for enforcement of the Intellectual Property Rights of the LMT Technology in the field of use of Consumer Electronic Products. Licensee shall pay all fees associated with the enforcement of Intellectual Property Rights. Licensee may have the right to take reasonable steps to enforce such Intellectual Property Rights against any infringement of such Intellectual Property Rights. Licensee may: (a) bring actions for enforcement in its own name (where allowed by law), and (b) have unrestricted right to choose strategy and direct any enforcement action. Licensee has the sole and exclusive right to agree to settlement of the enforcement action. Licensee shall be entitled to any monetary recovery from such enforcement action whether from settlement, judgement or otherwise. Licensor shall assist Licensee in bringing an enforcement action, including, where necessary, executing whatever documents are necessary to afford to Licensee the opportunity to bring the action for enforcement. The Parties shall bear their own costs associated with any such enforcement action. In the event that Licensee cannot bring the enforcement action in Licensee's name, Licensee has the right to either join the Licensor as a party in the enforcement action or to have the enforcement action brought in the name of the Licensor. In connection therewith, Licensee shall: i) have the unrestricted right to choose strategy and direct of the enforcement action; ii) have the sole and exclusive right to agree to settlement of the enforcement action; and iii) be entitled to any monetary recovery from such enforcement action whether from settlement, judgment or otherwise. The Parties shall bear their own costs associated with such enforcement action, subject to, if the Licensee receives monetary recovery as a result of the enforcement action, the Licensee shall reimburse the Licensor for Licensor's reasonable costs out of the monetary recovery. In the event that Licensee should decide not to enforce its rights related to the LMT Technology, then Licensee shall afford to Licensor the opportunity to bring an action for enforcement at its own cost and expense, and to choose strategy and direction of such an action, in which case Licensor shall be entitled to the entire monetary recovery. Notwithstanding the foregoing, either Party may be represented by counsel in any enforcement action, and shall bear its costs associated therewith; however, such costs (including counsel fees) shall not be reimbursable by the other Party, unless otherwise agreed by the Parties. In the event that any enforcement action involves products both inside and outside of the field of Consumer Electronic Products, then Licensor and Licensee shall cooperate in good faith to allocate the costs and recovery associated with such action in proportion to the relative value of the action to the parties.
- 2.4 **Release.** Licensor on behalf of itself and its Affiliates, successors and assigns, hereby releases, acquits and forever discharges Licensee, its Affiliates, and all of their respective current and former predecessors, successors, agents, attorneys, insurers, servants, distributors, retailers, resellers, manufacturers, suppliers, employees, officers, directors, users, and customers from any and all claims of infringement and misappropriation of the LMT Technology, that occurred prior to the Effective Date.
- 2.5 **Trademark Usage.** In the event that Licensee desires to utilize the Liquidmetal<sup>®</sup> trademark, or any other trademark or service mark included in the LMT Technology (collectively, the "Trademark"), then Licensee will comply with the following restrictions with respect to its use of the Trademark: (i) all stylized use of the Trademark shall be solely in the original logotype identified by Licensor, except as otherwise agreed in writing by Licensor, (ii) Licensee agrees not to affix the Trademark to products other than the Licensed Products, (iii) Licensee will not utilize the Trademark to refer to any materials other than amorphous metal alloys or composite materials included within the LMT Technology, (iv) Licensee agrees not to modify Trademark or change the appearance of any stylized or logo form of the Trademark, and (v) the "®" icon shall always follow the Trademark, and (v) Licensee agrees not to take any other action that would be reasonably expected to undermine the enforceability of the Trademark.

- 2.6 **Subordination of Security Interest.** Crucible has granted Apple a security interest in all of its assets, including, without limitation, the LMT Technology which is licensed to Apple pursuant to this Agreement. Crucible hereby agrees that in the event such security interest shall be enforced and, as a result of such enforcement, any of the LMT Technology shall be transferred to any person or entity, (a) such person or entity shall acquire or otherwise receive such LMT Technology subject to all rights, powers and privileges of Apple under this Agreement, (b) such acquirer may not interfere with or disturb Apple's use and enjoyment of such rights, powers and privileges, and (c) this Agreement shall continue in full force and effect as if such security interest had not been granted or enforced.

**ARTICLE 3  
CONFIDENTIALITY**

- 3.1 The terms and existence of this Agreement shall be treated as Confidential Information pursuant to the Apple Inc. Confidentiality Agreement, executed on April 30, 2010 by Apple Inc. and LMT.

**ARTICLE 4  
TERM AND COVENANT NOT TO SUE**

- 4.1 **Term.** The term of this Agreement commences on the Effective Date and shall continue in perpetuity.
- 4.2 **Rejection.** Should Licensor reject this license under section 365(n) of the Bankruptcy Code, Licensee may treat the license as terminated, in which case licensee shall have a claim for damages against Licensor equal to all amounts paid by Apple to or on behalf of LMT, LMC and Crucible pursuant to all Transaction Documents plus interest thereon from the date of such payment until the date on which Apple recovers payment in full of from the defaulting LMT party (or, if LMT is not the defaulting LMT party, LMT pursuant to Section 14 of the MTA) all damages hereunder and under the other Transaction Documents at a rate per annum equal to the greater of (i) 10% or (ii) "prime rate" as reported in *The Wall Street Journal* in effect from time to time plus two percent. Alternatively, Licensee may elect, under section 365(n) to continue as licensee under this Agreement, and shall only be responsible for the payment of the fees identified in Section 2.2 above.



- 4.3 **Covenant Not to Sue.** Licensor, on behalf of itself and its respective heirs, executors, successors, assigns, agents and all other persons and entities associated with either of them, covenants that it will not at any time, whether now or in the future, sue, file, assist, or participate in, or cause, assert, or induce any other person or entity to sue, file, assert, or participate in any claim or allegation against any of the following for infringement of Intellectual Property Rights of any of the LMT Technology: (i) Licensee; or (ii) their respective past, present and future owners, shareholders, parents, subsidiaries, successors, assigns, divisions, units, officers, directors, employees, agents, attorneys, or representatives, or (iii) their respective past, present and future direct and indirect vendors, suppliers, manufacturers, distributors, customers, or end users (collectively, “**Licensee-Related Entities**”) in connection with any act by a Licensee-Related Entity at the direction of or on behalf of Apple related to or in connection with any Apple-branded or Apple-licensed product. This covenant not to sue does not inure to the benefit of any third parties for their conduct that is unrelated to Licensees. For purposes of this paragraph, the grant to LMT or LMC of an exclusive license under the LMT Technology in a field other than Consumer Electronic Products shall not be a violation of this paragraph, even if LMT or LMC is granted, as a part of such exclusive license, the right to sue or otherwise assert infringement claims with respect to such Intellectual Property Rights. Further, Crucible shall not be in breach of this subsection if Crucible participates as a party in any litigation proceedings where any of the Intellectual Property Rights included in the LMT Technology are asserted by another party against Apple, provided that a court of competent jurisdiction shall have ruled that Crucible’s participation as a party is necessary to such proceedings and shall have ordered Crucible to participate as a party.
- 4.4 **Grant-Back of License.** Crucible has no right to transfer, assign, sell, convey or otherwise dispose of, any of the LMT Technology and/or the Intellectual Property related thereto. If for any reason, Crucible transfers, assigns, sells, conveys or otherwise disposes of, any of the LMT Technology and/or the Intellectual Property related thereto, Crucible shall grant Apple a fully paid-up, royalty-free, irrevocable perpetual, worldwide, nonexclusive license and sublicense, with the right to grant sublicense, under the LMT Technology to use, reproduce, publish, display, distribute, perform, exploit and disclose the LMT Technology and to make and have made, assemble and have assembled, use, sell, offer to sell, import and offer to import, license and offer to license, distribute and offer to distribute, repair, reconstruct, practice, and maintain Licensed Products, and perform any act or step that incorporates, utilizes, embodies or reflects the LMT Technology, including, without limitation, any such activities that would, absent a license, subject a person or other legal entity to a claim of direct infringement, contributory infringement, inducing infringement, or any other type of infringement. If the nonexclusive license described herein cannot be granted, the transfer, assignment, sale, conveyance of disposing of the LMT Technology and/or the Intellectual Property related thereto by the Crucible shall be void *ab initio*.

- 4.5 **Licensor Obligations.** Crucible shall (a) fully perform all obligations and discharge all liabilities under any licenses, sublicenses and other agreements included in the LMT Technology as and when the same are to be performed; (b) without limiting the generality of the foregoing, pay, prior to delinquency, all insurance premiums, taxes, charges, liens and assessments against the LMT Technology and all amounts that become due and payable under any trade secrets, licenses, sublicenses and other agreements included in the LMT Technology; (c) promptly provide Apple with copies of all invoices received with respect to payments described in the preceding clause (b) and notice of any payments made pursuant to this Section 4.5 upon making such payment, and upon request of Apple, provide copies of documents as may be reasonably necessary or advisable to confirm that Crucible has performed the obligations set forth in this Section 4.5; (d) promptly following receipt thereof, deliver copies of all notices alleging any breach or default under or asserting any adverse claim in respect of any trade secrets, licenses, sublicenses and other agreements included in the LMT Technology; and (e) upon request from Apple, provide Apple with reasonably detailed reports and copies of documents as may be reasonably necessary or advisable to confirm that Crucible has performed the foregoing obligations. Crucible hereby irrevocably appoints Apple its true attorney in fact to perform any of the following powers, which are coupled with an interest, until termination of this Agreement and may be exercised from time to time by Apple's officers and employees, or any of them to perform any obligation of Crucible under this Section 4.5, in Crucible's name or otherwise.

**ARTICLE 5  
MISCELLANEOUS PROVISIONS**

- 5.1. All notices from one party to the other required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page hereof (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.
- 5.2. Licensor shall not assign, transfer, subcontract or otherwise delegate any of its obligations under this Agreement without Apple's prior written consent in each instance. Any attempted assignment, transfer, subcontracting or other delegation without such consent shall be void and shall constitute a breach of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of the parties' successors and assigns.
- 5.3. Licensor acknowledges that any breach of this Agreement by it may cause irreparable harm to Apple or its affiliates and that the remedies for breach may include injunctive relief against such breach, in addition to damages and other available remedies. The prevailing party shall be entitled to the award of its reasonable attorneys' fees in any action to enforce this Agreement.

- 5.4 This Agreement, including any recitals, terms, conditions, and provisions herein, and all exhibits attached hereto and referenced herein, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes and cancels all other prior agreements and understandings of the parties in connection with subject matter. The headings or titles in this Agreement are for purposes of reference only and shall not in any way affect the interpretation or construction of this Agreement.
- 5.5 No waiver of any of the provisions of this Agreement shall be valid unless in a written document, signed by the party against whom such a waiver is sought to be enforced, nor shall failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder. All amendments of this Agreement shall be made in writing and signed by both parties, and no oral amendment shall be binding on the parties.
- 5.6 This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. The parties hereby consent to jurisdiction and venue in the appropriate state and Federal courts sitting in the Northern District of California in any litigation between them arising out of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.
- 5.7 The Parties have had the opportunity to negotiate the terms of this Agreement, and no Party shall be deemed the drafter of all or any portion of this Agreement for purposes of interpretation. The terms of this Agreement shall be binding and shall be strictly construed in any proceeding relating or pertaining to this Agreement. Without affecting the obligations of the Parties otherwise expressed, the term "shall" when used in connection with any act or obligation to be undertaken means an affirmative obligation. The term "including" shall mean "including but not limited to." All terms shall be construed in the masculine or feminine and in plural or singular as required by the context in which the term is used. The definitions of terms in this Agreement are limited to this Agreement.
- 5.8 If any one or more of the provisions of this Agreement is held to be invalid, illegal, or unenforceable in any respect, the other provisions shall remain in full force and effect. Any provision deemed invalid, illegal, or unenforceable because its scope is considered excessive shall be modified only to the minimum extent necessary to render the provision valid, legal, and enforceable under California law.

5.9 Each Party has had, or has had the opportunity to obtain, the advice of legal, accounting, and other professional advisers regarding the language in this Agreement. No Party has relied on legal counsel for another Party, and no legal counsel or other adviser for a Party shall have any duty or obligation to another Party. Each Party has read and understands this Agreement and is executing this Agreement as the Party's free act and without duress.

[intentionally blank]

IN WITNESS WHEREOF, each of the parties has executed this Agreement as of the date first written above. Each of the persons signing this Agreement affirms that he or she is duly authorized to do so and thereby to bind the indicated entity. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**APPLE:**

**CRUCIBLE INTELLECTUAL  
PROPERTY, LLC:**

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By: /s/ Zadesky  
Name: Zadesky  
Title: VP Product Design  
Date: 8/5/10

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By: /s/ Tony Chung  
Name: Tony Chung  
Title: Chief Financial Officer  
Date: 8/4/10

Address: MS 301-4GC  
1 Infinite Loop  
Cupertino, CA 93014  
Attn: General Counsel

Address: 31441 Santa Margarita Pkwy.  
Suite A #247  
Rancho Santa Margarita, CA  
92688  
Attn: Chief Executive Officer

ANNEX 7

**LMT License**

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**EXCLUSIVE LICENSE AGREEMENT**

This Exclusive License Agreement (“Agreement”) is entered into as of August 5, 2010, by and between Liquidmetal Technologies, Inc., a Delaware corporation having an address of 30452 Esperanza, Rancho Santa Margarita, California 92688 (“LMT”), and Crucible Intellectual Property, LLC, a Delaware limited liability company having an address of 31441 Santa Margarita Pkwy., Suite A #247, Rancho Santa Margarita, California 92688 (“Crucible”). Either LMT or Crucible may be referred to individually herein as a “Party”, and LMT and Crucible may be referred to collectively herein as the “Parties”.

**RECITALS**

**WHEREAS**, Crucible is a wholly owned subsidiary of LMT; and

**WHEREAS**, LMT, Liquidmetal Coatings, LLC, a Delaware limited liability company (“LMC”), Crucible, and Apple Inc., a California corporation (“Apple”), have entered into a Master Transaction Agreement of even date herewith (the “MTA”) pursuant to which, among other things, LMT has contributed, transferred, and assigned substantially all of its intellectual property assets to Crucible; and

**WHEREAS**, in consideration of the contribution, transfer, and assignment by LMT of such intellectual property assets to Crucible (the “Contribution”), Crucible hereby desires to grant to the licenses set forth below upon the terms and conditions set forth herein.

**NOW THEREFORE**, the Parties hereby agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

Unless a term is defined in this Agreement, all defined terms shall have the meanings specified in the MTA. For purposes of this Agreement, the following terms and have the meanings set forth below:

1.1. **“Agreement”** shall mean this Exclusive License Agreement.

1.2 **“Apple License Agreement”** shall mean the Exclusive License Agreement of even date herewith between Apple and Crucible pursuant to which Crucible has granted, upon the terms and conditions set forth in such Exclusive License Agreement, an exclusive license under Crucible’s Intellectual Property Rights in the field of use of Consumer Electronic Products.

1.3. **“Subsidiary”** with respect to a Party shall mean any corporation, partnership or other entity, now or hereafter, (i) greater than fifty percent (50%) of whose outstanding shares or securities entitled to vote for the election of directors or similar managing authority is directly or indirectly owned or controlled by a Party hereto, or (ii) a beneficial interest of greater than fifty percent (50%) coupled with ownership or control (either direct or indirect) of greater than fifty percent (50%) of whatever interest represents the right to make executive and/or operational decisions for such entity; provided, however, that in each case such corporation, partnership or other entity shall be deemed to be a Subsidiary only so long as all requisite conditions of being a Subsidiary are met. Notwithstanding anything in this paragraph to the contrary, for purposes of this Agreement, LMC shall be deemed to be a Subsidiary of LMT.

- 1.4 “**Effective Date**” shall mean the date of this Agreement.
- 1.5 “**Licensed Products**” shall mean any product made or sold by or on behalf of LMT or its Subsidiaries or sublicensees in the LMT Fields.
- 1.6 “**Licensees**” shall mean and include individually and collectively LMT and any Subsidiary thereof.
- 1.7 “**Licensor**” shall mean Crucible.

**ARTICLE 2**  
**GRANT, CONSIDERATION, and ENFORCEMENT OF RIGHTS**

2.1 Exclusive License Grant. Licensor grants to Licensee a fully paid-up, royalty-free, irrevocable, perpetual, worldwide exclusive license and sublicense, with the right to grant sublicenses, under the LMT Technology in any and all fields of use other than Consumer Electronic Products (the “LMT Fields”), to use, reproduce, publish, display, distribute, perform, exploit and disclose the LMT Technology and to make and have made, assemble and have assembled, use, sell, offer to sell, import and offer to import, license and offer to license, distribute and offer to distribute, repair, reconstruct, practice, and maintain Licensed Products, and perform any act or step that incorporates, utilizes, embodies or reflects, any inventions claimed in the LMT Technology, including, without limitation, any such activities that would, absent a license, subject a person or other legal entity to a claim of direct infringement, contributory infringement, inducing infringement, or any other type of infringement. Notwithstanding the foregoing, the license set forth in this paragraph shall, specifically exclude any LMC Intellectual Property Assets, as that term is defined in the Exclusive License Agreement of even date herewith between Licensor and LMC.

2.2 Nonexclusive License Grant. Licensor grants to Licensee a fully paid-up, royalty-free, irrevocable, perpetual, worldwide nonexclusive license, with the right to grant sublicenses only to Apple, under the LMT Technology in the Nonexclusive Field, to use, reproduce, publish, display, distribute, perform, exploit and disclose the LMT Technology and to make and have made, assemble and have assembled, use, sell, offer to sell, import and offer to import, license and offer to license, distribute and offer to distribute, repair, reconstruct, practice, and maintain Specified Licensed Products, and perform any act or step that incorporates, utilizes, embodies or reflects, any inventions claimed in the LMT Technology in the Nonexclusive Field, including without limitation any such activities that would, absent a license, subject a person or other legal entity to a claim of direct infringement, contributory infringement, inducing infringement, or any other type of infringement. For purposes hereof, “Nonexclusive Field” means the worldwide industry for any of the following products to the extent that such products constitute Consumer Electronic Products: (i) Watches and Watch Components as well as (ii) Jewelry and components for Jewelry, and (iii) Renewable Energy Products. “Specified Licensed Products” means the following products using the Licensed Technology but only to the extent that any such product constitutes a Consumer Electronic Product: (i) Watches and Watch Components as well as (ii) Jewelry and components for Jewelry, and (iii) Renewable Energy Products. The term “Watch Components” includes all watches whether luxury or casual watches. For purposes hereof, the term “Jewelry” means rings, necklaces, pins, cufflinks, and other objects that are ornamental in nature and used for adornment of the human body. “Renewable Energy Products” means components and devices used in systems designed primarily for the conversion, storage, or transport of any form of power, including but not limited to electrical, mechanical and chemical power, from renewable energy sources. As further clarification, Renewable Energy Products are products used in the conversion, storage and transportation function from renewable energy sources as opposed to inert components, such as a casings.



2.3 License Consideration. The licenses and rights granted to Licensee herein are made by Licensee in consideration of (a) the Contribution, (b) Licensee's performance of (i) all obligations of Licensor under agreements included in the LMT Technology, (ii) all obligations of Licensor arising as a matter of law with respect to the LMT Technology, and (iii) all obligations imposed by the MTA on Licensee with respect to the LMT Technology (the "Technology Obligations"), and (c) the other obligations undertaken by Licensee in this Agreement. Licensee hereby agrees to pay all amounts and to perform all of the Technology Obligations with respect to the LMT Technology.

2.4 Enforcement of Rights. Licensor grants to Licensee the right for enforcement of the Intellectual Property Rights of the LMT Technology in all fields of use. Licensee shall pay all fees associated with the enforcement of Intellectual Property Rights. Licensee shall have the right to take reasonable steps to enforce such Intellectual Property Rights against any infringement of such Intellectual Property Rights. Licensee may: (a) bring actions for enforcement in its own name (where allowed by law), and (b) have unrestricted right to choose strategy and direct any enforcement action. Licensee has the sole and exclusive right to agree to settlement of the enforcement action. Licensee shall be entitled to any monetary recovery from such enforcement action whether from settlement, judgement or otherwise. Licensor shall assist Licensee in bringing an enforcement action, including, where necessary, executing whatever documents are necessary to afford to Licensee the opportunity to bring the action for enforcement. The Parties shall bear their own costs associated with any such enforcement action. In the event that Licensee cannot bring the enforcement action in Licensee's name, Licensee has the right to either join the Licensor as a party in the enforcement action or to have the enforcement action brought in the name of the Licensor. In connection therewith, Licensee shall: i) have the unrestricted right to choose strategy and direct of the enforcement action; ii) have the sole and exclusive right to agree to settlement of the enforcement action; and iii) be entitled to any monetary recovery from such enforcement action whether from settlement, judgment or otherwise. The Parties shall bear their own costs associated with such enforcement action, subject to, if the Licensee receives monetary recovery as a result of the enforcement action, the Licensee shall reimburse the Licensor for Licensor's costs out of the monetary recovery. Notwithstanding the foregoing, either Party may be represented by counsel in any enforcement action, and shall bear its costs associated therewith; however, such costs (including counsel fees) shall not be reimbursable by the other Party, unless otherwise agreed by the Parties. Notwithstanding anything set forth in this paragraph. Licensee shall not have the right to take any action under this paragraph to the extent that the Apple License Agreement specifically prohibits Licensee from taking any such action. Licensee may, at its option, grant to its sublicensees any of the rights granted to Licensee under this paragraph to the extent such sublicensee is granted exclusive rights to the LMT Technology in a specified field of use, including the right to either join the Licensor as a party in an enforcement action or to have the enforcement action brought in the name of the Licensor to the extent that the sublicensee cannot bring an enforcement action in its own name, and to the extent provided in any such sublicensee's sublicense, such sublicensee shall be a third-party beneficiary of the Licensor's obligation to be joined in any such enforcement action.

2.5 Subordination of License. Licensee acknowledges that Licensor has granted Apple a security interest in all of its assets, including, without limitation, the LMT Technology which is licensed to Licensee pursuant to this Agreement. Licensee agrees that in the event such security interest shall be enforced and, as a result of such enforcement, any of the LMT Technology shall be transferred to any person or entity, (a) such person or entity shall acquire or otherwise receive such LMT Technology free and clear of all rights, powers and privileges of Licensee under this Agreement and (b) this Agreement shall be terminated to the extent such LMT Technology shall have been so acquired upon notice from such acquirer.

2.6 Sublicense Obligations. If Licensee elects to grant any sublicense(s) under this Agreement, any such sublicense agreement must include the following:

(a) a clear statement that, notwithstanding any other provisions in such sublicense, nothing in such sublicense shall give the sublicensee any right to use any portion of the LMT Technology in the field of Consumer Electronic Products (and Licensee shall include in each sublicense agreement the full definition of "Consumer Electronic Products" that is specified in the MTA, for reference);

(b) a clear reservation of LMT-SPE's right to take any and all actions necessary to defend the LMT Technology in any litigation or administrative proceedings in which the sublicensee is a party; and

(c) a clear reservation of LMT's right to take any and all actions necessary to defend the LMT Technology in any litigation or administrative proceedings in which the sublicensee is a party.

**ARTICLE 3**  
**TERM**

3.1 Term. The term of this Agreement commences on the Effective Date and shall continue in perpetuity.

**ARTICLE 4**  
**MISCELLANEOUS PROVISIONS**

4.1. All notices from one party to the other required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page hereof (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.

4.2. Licensor shall not assign, transfer, subcontract or otherwise delegate any of its obligations under this Agreement without Licensee's prior written consent in each instance. Any attempted assignment, transfer, subcontracting or other delegation without such consent shall be void and shall constitute a breach of this Agreement. Licensee may assign, transfer, subcontract, or otherwise delegate any of its rights or obligations under this Agreement at any time upon notice to Licensor. Subject to the foregoing, this Agreement shall inure to the benefit of the parties' successors and assigns.

4.3. Licensor acknowledges that any breach of this Agreement by it may cause irreparable harm to Licensee and that the remedies for breach may include injunctive relief against such breach, in addition to damages and other available remedies. The prevailing party shall be entitled to the award of its reasonable attorneys' fees in any action to enforce this Agreement.

4.4. This Agreement, including any recitals, terms, conditions, and provisions herein, and all exhibits attached hereto and referenced herein, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes and cancels all other prior agreements and understandings of the parties in connection with subject matter. The headings or titles in this Agreement are for purposes of reference only and shall not in any way affect the interpretation or construction of this Agreement.

4.5. No waiver of any of the provisions of this Agreement shall be valid unless in a written document, signed by the party against whom such a waiver is sought to be enforced, nor shall failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder. All amendments of this Agreement shall be made in writing, approved by Apple and signed by both parties, and no oral amendment or amendment made without the approval of Apple shall be binding on the parties. Apple shall be a third-party beneficiary to this provision.

4.6 This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. If any provision of this Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.

4.7 Without affecting the obligations of the parties otherwise expressed, the term "shall" when used in this Agreement in connection with any act or obligation to be undertaken means an affirmative obligation. The term "including" shall mean "including but not limited to." All terms shall be construed in the masculine or feminine and in plural or singular as required by the context in which the term is used. The definitions of terms in this Agreement are limited to this Agreement.

[signatures follow]

IN WITNESS WHEREOF, each of the parties has executed this Agreement as of the date first written above. Each of the persons signing this Agreement affirms that he or she is duly authorized to do so and thereby to bind the indicated entity. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**LIQUIDMETAL TECHNOLOGIES,  
INC.:**

**CRUCIBLE INTELLECTUAL  
PROPERTY, LLC:**

---

By: /s/ Larry Buffington  
Name: LARRY BUFFINGTON  
Title: PRESIDENT / CEO  
Address: 30452 Esperanza  
Rancho Santa Margarita, CA  
92688  
Attn: Chief Executive Officer

---

By: /s/ Tony Chung  
Name: Tony Chung  
Title: Chief Financial Officer  
Address: 31441 Santa Margarita Pkwy.,  
Suite A #247  
Rancho Santa Margarita, CA  
92688  
Attn: Chief Executive Officer

**ANNEX 8**

**LMC License**

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**EXCLUSIVE LICENSE AGREEMENT**

This Exclusive License Agreement (“Agreement”) is entered into as of August 5, 2010, by and between Crucible Intellectual Property, LLC, a Delaware limited liability company having an address of 31441 Santa Margarita Pkwy., Suite A #247, Rancho Santa Margarita, California 92688 (“Crucible”), and Liquidmetal Coatings, LLC, a Delaware limited liability company having an address of 900 Rockmead, Suite 240, Kingwood, TX 77339 (“LMC”). Either Crucible or LMC may be referred to individually herein as a “Party”, and Crucible and LMC may be referred to collectively herein as the “Parties”.

**RECITALS**

**WHEREAS**, LMC is a majority owned subsidiary of Liquidmetal Technologies, Inc., a Delaware corporation (“LMT”), and Crucible is wholly owned special-purpose subsidiary of LMT;

**WHEREAS**, LMT, LMC, Apple Inc., a California corporation (“Apple”), and Crucible, have entered into a Master Transaction Agreement of even date herewith (the “MTA”) pursuant to which, among other things: (i) LMT has contributed, transferred, and assigned substantially all of its intellectual property assets (the “LMT Intellectual Property”) to Crucible, and (ii) Crucible has granted to Apple, under an Exclusive License Agreement of even date herewith between Crucible and Apple (the “Apple License Agreement”), an exclusive, worldwide, perpetual, fully paid-up right and license to exploit the LMT Intellectual Property in the field of use of Consumer Electronic Products (as defined in the MTA), and (iii) Crucible has granted to LMT, under an Exclusive License Agreement of even date herewith between Crucible and LMT (the “LMT License Agreement”), an exclusive, worldwide, perpetual, fully paid-up right and license to exploit the LMT Intellectual Property in all fields of use other than Consumer Electronic Products;

**WHEREAS**, immediately prior to the above-described contribution of the LMT Intellectual Property to Crucible, LMC and LMT have entered into an Assignment and Assumption Agreement of even date herewith pursuant to which LMC assigned and transferred certain intellectual property rights to LMT (the “LMC Assignment”);

**WHEREAS**, as a result of the LMC Assignment, the LMC Intellectual Property Assets (as defined below) are included within the LMT Intellectual Property contributed to Crucible by LMT pursuant to the MTA; and

**WHEREAS**, as a condition to and in consideration of the LMC Assignment, Crucible desires to hereby license the LMC Intellectual Property Assets back to LMC upon the terms and conditions set forth herein.

**NOW THEREFORE**, the Parties hereby agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

Unless a term is defined in this Agreement, all defined terms shall have the meanings specified in the MTA. For purposes of this Agreement, the following terms and have the meanings set forth below:

1.1. **“Agreement”** shall mean this Exclusive License Agreement.

1.3. **“Subsidiary”** with respect to a Party shall mean any corporation, partnership or other entity, now or hereafter, (i) greater than fifty percent (50%) of whose outstanding shares or securities entitled to vote for the election of directors or similar managing authority is directly or indirectly owned or controlled by a Party hereto, or (ii) a beneficial interest of greater than fifty percent (50%) coupled with ownership or control (either direct or indirect) of greater than fifty percent (50%) of whatever interest represents the right to make executive and/or operational decisions for such entity; provided, however, that in each case such corporation, partnership or other entity shall be deemed to be a Subsidiary only so long as all requisite conditions of being a Subsidiary are met.

1.4. **“Effective Date”** shall mean the date of this Agreement.

1.5. **“Licensed Products”** shall mean any product made or sold by or on behalf of LMC or its Subsidiaries or sublicensees in the LMC Fields.

1.6. **“Licensees”** shall mean and include individually and collectively LMC and any Subsidiary thereof.

1.7. **“Licensor”** shall mean Crucible.

1.8. **“LMC Intellectual Property Assets”** means the Intellectual Property Rights transferred and assigned by LMC to LMT under the LMC Assignment.

**ARTICLE 2**  
**GRANT, CONSIDERATION, and ENFORCEMENT OF RIGHTS**

2.1. **Exclusive License Grant.** Licensor grants to Licensee a fully paid-up, royalty-free, irrevocable, perpetual, worldwide exclusive license, with the right to grant sublicenses, under the LMC Intellectual Property Assets in any and all fields of use other than Consumer Electronic Products (the “LMC Fields”), to use, reproduce, publish, display, distribute, perform, exploit and disclose the LMC Intellectual Property Assets and to make and have made, assemble and have assembled, use, sell, offer to sell, import and offer to import, license and offer to license, distribute and offer to distribute, repair, reconstruct, practice, and maintain Licensed Products, and perform any act or step that incorporates, utilizes, embodies or reflects, any inventions claimed in the LMC Intellectual Property Assets, including without limitation any such activities that would, absent a license, subject a person or other legal entity to a claim of direct infringement, contributory infringement, inducing infringement, or any other type of infringement.



2.2 **Consideration.** The licenses and rights granted to Licensee herein are made by Licensee in consideration of (a) the LMC Assignment, (b) Licensee's performance of (i) all obligations of Licensor under agreements included in the LMC Intellectual Property Assets, (ii) all obligations of Licensor arising as a matter of law with respect to the LMC Intellectual Property Assets, and (iii) all obligations imposed by the MTA on Licensee with respect to the LMC Intellectual Property Assets (the "Technology Obligations"), and (c) the other obligations undertaken by Licensee in this Agreement. Licensee hereby agrees to pay all amounts and to perform all of the Technology Obligations with respect to the LMC Intellectual Property Assets.

2.3 **Enforcement of Rights.** Licensor grants to Licensee the right for enforcement of the LMC Intellectual Property Assets in all fields of use other than Consumer Electronic Products. Licensee shall pay all fees associated with the enforcement of Intellectual Property Rights. Licensee shall have the right to take reasonable steps to enforce such Intellectual Property Rights against any infringement of such Intellectual Property Rights. Licensee may: (a) bring actions for enforcement in its own name (where allowed by law), and (b) have unrestricted right to choose strategy and direct any enforcement action. Licensee has the sole and exclusive right to agree to settlement of the enforcement action. Licensee shall be entitled to any monetary recovery from such enforcement action whether from settlement, judgement or otherwise. Licensor shall assist Licensee in bringing an enforcement action, including, where necessary, executing whatever documents are necessary to afford to Licensee the opportunity to bring the action for enforcement. The Parties shall bear their own costs associated with any such enforcement action. In the event that Licensee cannot bring the enforcement action in Licensee's name, Licensee has the right to either join the Licensor as a party in the enforcement action or to have the enforcement action brought in the name of the Licensor. In connection therewith, Licensee shall: i) have the unrestricted right to choose strategy and direct of the enforcement action; ii) have the sole and exclusive right to agree to settlement of the enforcement action; and iii) be entitled to any monetary recovery from such enforcement action whether from settlement, judgment or otherwise. The Parties shall bear their own costs associated with such enforcement action, subject to, if the Licensee receives monetary recovery as a result of the enforcement action, the Licensee shall reimburse the Licensor for Licensor's costs out of the monetary recovery. Notwithstanding the foregoing, either Party may be represented by counsel in any enforcement action, and shall bear its costs associated therewith; however, such costs (including counsel fees) shall not be reimbursable by the other Party, unless otherwise agreed by the Parties.

2.4 **Subordination of Security Interest.** Licensor has granted Apple a security interest in all of its assets, including, without limitation, the LMC Intellectual Property Assets which are licensed to Licensee pursuant to this Agreement. Licensor hereby represents and warrants that in the event such security interest shall be enforced and, as a result of such enforcement, any of the LMC Intellectual Property Assets shall be transferred to any person or entity, (a) such person or entity shall acquire or otherwise receive such LMC Intellectual Property Assets subject to all rights, powers and privileges of Licensee under this Agreement, (b) such acquirer may not interfere with or disturb Licensee's use and enjoyment of such rights, powers and privileges, and (c) this Agreement shall continue in full force and effect as if such security interest had not been granted.

2.5 Sublicensee Obligations. If Licensee elects to grant any sublicense(s) under this Agreement, any such sublicense agreement must include the following:

(a) a clear statement that, notwithstanding any other provisions in such sublicense, nothing in such sublicense shall give the sublicensee any rights to use any portion of the LMT Technology in the field of Consumer Electronic Products (and Licensee shall include in each sublicense agreement the full definition of "Consumer Electronic Products" that is specified in the MTA, for reference);

(b) a clear reservation of Licensor's right to take any and all actions necessary to defend the LMT Technology in any litigation or administrative proceedings in which the sublicensee is a party; and

(c) a clear reservation of LMC's right to take any and all actions necessary to defend the LMT Technology in any litigation or administrative proceedings in which the sublicensee is a party.

### **ARTICLE 3**

#### **TERM**

3.1 Term. The term of this Agreement commences on the Effective Date and shall continue in perpetuity.

### **ARTICLE 4**

#### **MISCELLANEOUS PROVISIONS**

4.1. All notices from one party to the other required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page hereof (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.

4.2 Neither Party shall be permitted to assign, transfer, subcontract or otherwise delegate any of its obligations under this Agreement without the other Party's prior written consent, provided that either Party may assign this Agreement upon written notice to the other Party upon written notice to the other Party provided that (i) assignee agrees in writing to be bound by the assigning Party's obligations under this Agreement and (ii) no such assignment shall relieve the assigning Party of its obligations under this Agreement, provided, further, that nothing in this Section 4.2 or any other provision of this Agreement shall prohibit Licensee from a granting a security interest in its licenses and rights under this Agreement or impair the validity or enforceability of any such security interest. Any attempted assignment, transfer, subcontracting or other delegation in violation of the preceding sentence shall be void and shall constitute a breach of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of the parties' successors and assigns.

4.3 Licensor acknowledges that any breach of this Agreement by it may cause irreparable harm to Licensee and that the remedies for breach may include injunctive relief against such breach, in addition to damages and other available remedies. The prevailing party shall be entitled to the award of its reasonable attorneys' fees in any action to enforce this Agreement.

4.4 This Agreement, including any recitals, terms, conditions, and provisions herein, and all exhibits attached hereto and referenced herein, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes and cancels all other prior agreements and understandings of the parties in connection with subject matter. The headings or titles in this Agreement are for purposes of reference only and shall not in any way affect the interpretation or construction of this Agreement.

4.5 No waiver of any of the provisions of this Agreement shall be valid unless in a written document, signed by the party against whom such a waiver is sought to be enforced, nor shall failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder. All amendments of this Agreement shall be made in writing, approved by Apple and signed by both parties, and no oral amendment or amendment made without the approval of Apple shall be binding on the parties. Apple shall be a third-party beneficiary to this provision.

4.6 This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. If any provision of this Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.

4.7 Without affecting the obligations of the parties otherwise expressed, the term "shall" when used in this Agreement in connection with any act or obligation to be undertaken means an affirmative obligation. The term "including" shall mean "including but not limited to." All terms shall be construed in the masculine or feminine and in plural or singular as required by the context in which the term is used. The definitions of terms in this Agreement are limited to this Agreement.

[Signatures follow]

IN WITNESS WHEREOF, each of the parties has executed this Agreement as of the date first written above. Each of the persons signing this Agreement affirms that he or she is duly authorized to do so and thereby to bind the indicated entity. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**CRUCIBLE INTELLECTUAL  
PROPERTY, LLC:**

By: /s/ Tony Chung  
Name: Tony Chung  
Title: Chief Financial Officer

Address: 31441 Santa Margarita Pkwy.  
Suite A #247  
Rancho Santa Margarita, CA 92688  
Attn: Chief Executive Officer

**LIQUIDMETAL COATINGS, LLC:**

By: /s/ Larry Buffington  
Name: LARRY BUFFINGTON  
Title: PRESIDENT/CEO

Address: 900 Rockmead, Suite 240,  
Kingwood, TX 77339  
Attn: Chief Executive Officer

**ANNEX 9**

**Technology Development Agreement**

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**APPLE – LMT TECHNOLOGY DEVELOPMENT AGREEMENT**

This Technology Development Agreement (the “Agreement”) is made effective as of the Closing Date, as defined in the Master Transaction Agreement, by and between Apple Inc., a California corporation having its principal place of business at 1 Infinite Loop, Cupertino, California 95014, United States (“Apple”), and Liquidmetals Technology, Inc. (“LMT”), a Delaware corporation having its principal place of business at 30452 Esperanza, Rancho Santa Margarita, CA 92688 (“Company”). This Agreement is being entered into pursuant to that certain Master Transaction Agreement of even date herewith between the parties hereto (the “MTA”), and any capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed thereto in the MTA.

**1) Scope and Standards of Work.**

- a) Company shall provide, at no additional cost to Apple, technical assistance reasonably requested by Apple to effect i) the transfer by LMT of the non-patent LMT Technology and ii) the granting of the Exclusive License and License by LMT-SPE to Apple, for a 90-day period following the Closing Date (“the Initial Support Period”). Such technical assistance will be provided with LMT’s existing staff and resources, and LMT will not be required to hire or engage additional personnel in order to provide such technical assistance.
- b) Company shall provide, at no additional cost to Apple, any technology development services specified in Statements of Work under this Agreement, agreed to by Apple and the Company prior to the Closing Date (the “Pre-Closing Statements of Work” or “Pre-Closing SOWs”)
- c) Company shall provide, after the Initial Support Period, technical assistance and consultation to Apple as described in, and in accordance with the time tables set forth in, Statements of Work under this Agreement (the “Post-Closing Statements of Work” or “Post-Closing SOWs”).
- d) The technical assistance defined in (a), the technology development services defined in (b), and technical assistance and consultation defined in (c) shall be referred to collectively as the “Services”. The Pre-Closing SOWs and the Post-Closing SOWs shall be referred to collectively as the “Statements of Work” or “SOWs”.
- e) Company shall conduct all Services in accordance with all applicable Apple and generally accepted standards for Services of the type to be performed, as may be more fully provided in the Statements of Work (the “Applicable Standards”). Company shall at all times be responsible to remain current and updated as to all changes in the Applicable Standards.

- f) Apple may request reasonable changes to the Statement of Works prior to completion. No such proposed changes, including without limitation any associated changes in the price, payment schedules, and projected completion dates, shall be effective unless accepted in writing by authorized representatives of both Company and Apple.
  - g) Company warrants that its employees, agents, and approved subcontractors, if any, involved in performance of the Services shall have the experience and expertise necessary to perform such Services and will at all times be bound by appropriate agreements to vest in Company all of their right, title and interest in any Project Work Product (as defined below) or inventions, data, improvements, discoveries, ideas, processes, formulas, techniques, works of authorship, and know-how that are to be property of Apple or otherwise protected pursuant to Sections 3, 5 and 6 below.
  - h) Company represents and warrants that Company is not under any obligation in conflict or in any way inconsistent with the provisions of this Agreement or its provision of the Services. Company represents and warrants that Company's performance of the Services and this Agreement will not breach any agreement to keep in confidence proprietary information acquired by Company in confidence or in trust. Company warrants that it shall not, in the performance of any Services or in preparing to do so, violate any applicable law or infringe or misappropriate any intellectual properties of any third party, except to the extent due directly to Company's following instructions given to it by Apple.
  - i) Company agrees to notify Apple promptly if Company knows or has reason to believe that the Statements of Work or any instructions from Apple would, if followed by Company, violate any applicable law or infringe or misappropriate any intellectual properties of any third party or be inconsistent with the Applicable Standards.
- 2) **Apple Materials.** Apple shall provide items and materials as specified in the SOWs (the "Project Materials"). Company agrees that all such Project Material shall be and remain the sole and exclusive property of Apple. Project Material provided by Apple will be used by Company only for the purpose described in the Statements of Work and will not be transferred to any third party without first obtaining written authorization from Apple in each instance. Company agrees that it shall not, without Apple's express prior written authorization in each instance, analyze, disassemble, decompile, or otherwise reverse engineer any Apple Materials, except to the extent the Statements of Work explicitly directs Company to do so. Upon completion of the Services, any unused Project Material will be returned to Apple or destroyed at the sole discretion of Apple.

**3) Communication, Visits, Results, and Reports.**

- a) All results, reports, findings, conclusions, work papers, notebooks, electronic records, samples, prototypes, deliverables, and any other information or materials in any form or format arising out of performance of the Services by or for Company (the "Project Work Product") will be the sole property of Apple and shall become part of the Confidential Information to be protected under this Agreement. Company will retain and preserve all Project Work Product in accordance with the Applicable Standards and as set forth in the Statement of Work. No Project Work Product will be destroyed or otherwise disposed of by Company without authorization in writing in advance from Apple in each instance. Company shall, upon Apple's request from time to time, promptly deliver any and all Project Work Product and any work-in-process to Apple.
- b) Company shall prepare and provide one or more draft and final report(s) at the intervals, and upon completion of the Services, as more fully described in the Statements of Work. All reports shall be formatted and delivered to Apple in accordance with the Statements of Work.
- c) Apple will be solely responsible, at its discretion in accordance with applicable law, for any reporting to appropriate government agencies any Project Work Product generated during performance of the Services.
- d) Company shall permit Apple's representatives to visit Company facilities during normal working hours and with reasonable frequency to perform quality assurance audits, observe progress of the Services, to discuss the Services with appropriate officials and other personnel of Company, and to inspect records and data relevant to the Services. Facility visits shall also be permitted during the data retention period specified in the Statements of Work.

- 4) **Compensation for Post-Closing SOWs.** Apple will, in accordance with the payment and milestone schedules set forth in the Post-Closing SOWs (the "Fees and Payment Schedule"), and as complete compensation to Company, pay Company the fees set forth in the Fees and Payment Schedule. Company will be reimbursed only for expenses which are expressly provided for in the Fees and Payment Schedule or which have been approved in advance in writing by an authorized Apple representative. Expense reimbursements will be made within forty-five (45) days of receipt of Company's invoice, provided Company has furnished such documentation for authorized expenses as Apple may reasonably request. Otherwise, and except for the Apple Materials, if any, Company shall supply without separate charge all facilities, utilities, equipment, supplies, personnel, information, rights, and other items required for the timely performance by Company of the Services.

- 5) **Confidentiality.** The disclosure and use of all confidential information pursuant to this Agreement, including, but not limited to, this Agreement, the Project Materials, any technical information provided by the Company, and all Project Work Product, shall be subject to the terms of the Parties' existing Confidentiality Agreement, dated April 30, 2010, the terms of which are incorporated by reference herein.



**6) Intellectual Properties.**

- a) No right or license to Apple's intellectual property is granted or implied as a result of this Agreement or the Services, except to the limited extent necessary to conduct the Services during the term hereof. The transfer of Project Material provided herein does not constitute a public disclosure.
- b) All right, title and interest in all Project Work Product and any and all inventions, data, improvements, discoveries, ideas, processes, formulas, techniques, works of authorship, and know-how, whether patentable or not, conceived, reduced to practice, authored, or otherwise created or developed by or for Company in the course of performing any Services or otherwise arising therefrom, and all intellectual property covering such inventions including without limitation rights to patents, patent applications, patents, and copyrights ("Project IP"), shall be the property of Apple, and Company hereby transfers and assigns the same to Apple. Company shall communicate to Apple any of the same promptly and fully upon their creation or development. Company shall execute all papers and take all actions that Apple reasonably deems necessary or advisable for the filing and prosecution of patent applications or copyright or other registrations and, if appropriate, maintenance of patents or other rights or properties that may issue therefrom, including without limitation execution of any assignments or other agreements further evidencing Apple's ownership thereof. Inventorship shall be determined under principles of U.S. patent law and practice. If Company uses in the Services or incorporates or causes to be incorporated into any Project Work Product any inventions, works of authorship, developments, improvements, data, materials, or trade secrets owned or controlled by Company, or to the extent that any inventions, works of authorship, developments, improvements, data, materials, or trade secrets owned or controlled by Company are required for any use or exploitation by Apple of the Project Work Product, Company hereby grants to Apple a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license, with the right to grant sublicenses, to make, have made, copy, modify, make derivative works of, display, perform, publish, use, sell, offer for sale, import and otherwise exploit such inventions, works of authorship, developments, improvements, data, materials, and trade secrets in connection with the Project Work Product or any improvements, derivatives, or successors to them.
- c) Apple hereby grants to Company a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license under the Project Work Product and Project IP, with the right to grant sublicenses, to make, have made, copy, modify, make derivative works of, display, perform, publish, use, sell, offer for sale, import and otherwise exploit such inventions, works of authorship, developments, improvements, data, materials, and trade secrets in connection with the Project Work Product or Project IP, or any improvements, derivatives, or successors to them, solely for use outside of Apple's exclusive license field of Consumer Electronic Products.

- 7) **Indemnification.** Company shall defend, indemnify and hold Apple harmless in accordance with the provisions of the MTA.
- 8) **Term and Termination.** This Agreement shall have a term of three (3) years from the Closing Date. This Agreement may be renewed, at Apple's sole option, for successive one-year terms. Apple may at any time terminate this Agreement upon written notice to Company. In event of termination by Apple following initiation of substantial work by Company under the Post-Closing Statements of Work, the amounts payable to Company will be prorated based on actual work performed and costs incurred prior to the date of Apple's notice of termination, plus any unavoidable costs associated with termination of the Services, all such costs to be detailed in a final invoice delivered to Apple within sixty (60) days after termination of the Agreement. In no event shall any such post-termination payment exceed the next installment of the fees and expenses provided for in the Fees and Payment Schedule. Upon termination Company shall return to Apple all Apple Materials in its possession, together with completed or partially completed reports, data and samples, except for copies maintained for archival purposes to the extent permitted under the Statements of Work. The provisions of Sections 1(d), 1(e), 1(f), 1(g), 2, 3(a), 4, 5, 6, 7, 8, 9 and 10 of this Agreement shall survive the expiration or termination of this Agreement.
- 9) **Miscellaneous.**
- a) All notices from one party to the other required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page hereof (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.
- b) Apple has entered into this Agreement based on Company's particular proffered expertise. Company shall not assign, transfer, subcontract or otherwise delegate any of its obligations under this Agreement without Apple's prior written consent in each instance. Any attempted assignment, transfer, subcontracting or other delegation without such consent shall be void and shall constitute a breach of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of the parties' successors and assigns.
- c) Company acknowledges that any breach of this Agreement by it may cause irreparable harm to Apple or its affiliates and that the remedies for breach may include injunctive relief against such breach, in addition to damages and other available remedies. The prevailing party shall be entitled to the award of its reasonable attorneys' fees in any action to enforce this Agreement.

- d) This Agreement, including any SOWs and the Confidentiality Agreement referenced herein, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes and cancels all other prior agreements and understandings of the parties in connection with subject matter. The headings or titles in this Agreement are for purposes of reference only and shall not in any way affect the interpretation or construction of this Agreement.
- e) No waiver of any of the provisions of this Agreement shall be valid unless in a written document, signed by the party against whom such a waiver is sought to be enforced, nor shall failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder. All amendments of this Agreement shall be made in writing and signed by both parties, and no oral amendment shall be binding on the parties.
- f) This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. The parties hereby consent to jurisdiction and venue in the appropriate state and Federal courts sitting in the Northern District of California in any litigation between them arising out of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.
- g) In the event of a dispute, either party may commence litigation in the state or federal courts in Santa Clara County, California. The Parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction upon final and conclusive judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Each party irrevocably waives to the fullest extent permitted by applicable law (i) any objection it may have to the laying of venue in any court referred to above; (ii) any claim that any such action or proceeding has been brought in an inconvenient forum; and (iii) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process.
- h) Neither Apple nor Company will issue press releases or other publicity regarding the Agreement or its subject matter without the prior written approval of the other

**IN WITNESS WHEREOF**, the parties have executed this Development Agreement as of the effective date shown above. Each of the persons signing this Agreement affirms that he or she is duly authorized to do so and thereby to bind the indicated entity. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**APPLE:**

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By: /s/ Zadesky  
Name: Zadesky  
Title: VP Product Design  
Date: 8/5/10

Address: 1 Infinite Loop  
305-IDR  
Cupertino, CA 95014

Attn: \_\_\_\_\_

**COMPANY:**

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By: /s/ Tony Chung  
Name: Tony Chung  
Title: Chief Financial Officer  
Date: 8/4/10

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

**ANNEX 10**

**LMT Security Agreement**

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## SECURITY AGREEMENT

1. **Grant of Security Interest.** For valuable consideration, the undersigned **LIQUIDMETAL TECHNOLOGIES, INC.**, a Delaware corporation ("**Debtor**"), hereby grants and transfers to **APPLE INC.**, a California corporation ("**Creditor**"), a security interest in all of the property of Debtor, now existing or hereafter arising, described on Exhibit A attached hereto (collectively, the "**Collateral**"), subject to and in accordance with the terms of this Agreement.

2. **Obligations Secured.** The obligations secured hereby are the payment and performance of: (a) all present and future obligations of Debtor to Creditor under the Master Transaction Agreement of even date herewith ("**MTA**") and the "Transaction Documents" (as defined in the MTA) between Debtor and Creditor, as the same may be amended, modified, supplemented or amended and restated from time to time; and (b) all obligations of Debtor and rights of Creditor under this Agreement, as the same may be amended, modified, supplemented or amended and restated from time to time (the "**Obligations**"). The word "**Obligations**" is used herein in its most comprehensive sense and includes any and all debts, obligations and liabilities of Debtor under the MTA and Transaction Documents, including, without limitation, the obligation to pay damages to Creditor relating to the MTA.

3. **Termination.** This Agreement and the security interests hereunder will terminate upon the earlier of (a) the payment and performance of all obligations of Debtor to Creditor under the Transaction Documents or (b) the second (2<sup>nd</sup>) anniversary of the date of this Agreement; provided that if an Event of Default under this Agreement or an "Event of Default" under the Security Agreement of even date between Crucible Intellectual Property, LLC and Creditor shall have occurred and be continuing on the second (2<sup>nd</sup>) anniversary of the date of this Agreement, this Agreement shall not terminate until such Event of Default has been cured or waived by Creditor. Upon the termination of this Agreement and the security interests hereunder, Creditor will, upon the written request of Debtor, confirm such termination in writing and file (or grant Debtor in writing authorization to file) any termination statements or lien releases necessary to evidence the termination of this Agreement and the security interests hereunder.

4. **Covenants of Debtor.**

(a) Debtor, agrees in general: (i) to indemnify Creditor against all losses, claims, demands, liabilities and expenses of every kind caused by property subject hereto; (ii) to permit Creditor to exercise its powers; (iv) to execute and deliver such documents as Creditor deems necessary to create, perfect and continue the security interests contemplated hereby; (v) not to change its name, and as applicable, its chief executive office, its principal residence or the jurisdiction in which it is organized and/or registered without giving Creditor prior written notice thereof; (vi) not to change the places where Debtor keeps any Collateral or Debtor's records concerning the Collateral and Proceeds without giving Creditor prior written notice of the address to which Debtor is moving same; and (vii) to cooperate with Creditor in perfecting all security interests granted herein and in obtaining such agreements from third parties as Creditor deems necessary, proper or convenient in connection with the preservation, perfection or enforcement of any of its rights hereunder.

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(b) If Debtor shall at any time hold or acquire any certificated securities comprising any part of the Collateral, Debtor shall forthwith endorse, assign and deliver the same to Creditor, accompanied by such instruments of transfer or assignment duly executed in blank as Creditor may from time to time specify.

(c) If and when Debtor shall obtain rights to any (i) patents or patent applications; (ii) copyright registrations or copyright registration applications; (iii) mask works or mask work registration applications; (iv) trademark registrations or trademark registration applications; and (v) domain names that is included in the LMT Technology (all of the intellectual property described in clauses (i) through (iv), whether now owned or hereafter acquired, is collectively referred to herein as the “**Registered Intellectual Property**”), Debtor shall notify Creditor of such fact and make all necessary or appropriate filings with respect thereto to cause the security interest in such Registered Intellectual Property to be perfected. Debtor shall promptly and diligently register any such patent, copyright, trademark, service mark, trade name or other proprietary rights of Debtor which is registerable with the applicable governmental or other registration authority. Without the prior written consent of Creditor, Debtor shall not apply to register any copyrightable works or mask works with the U.S. Copyright Office, and any consent to such registration shall be conditioned upon Debtor executing such documents and taking such further actions as Creditor shall reasonably request in its sole discretion to perfect and continue perfected, maintain the priority of or provide notice of, the security interest granted to Creditor under this Agreement in such copyrightable works notwithstanding such copyright registration. Notwithstanding the foregoing, Debtor shall not be obligated to comply with the requirements of this paragraph with respect to any LMT Intellectual Property as to which Debtor contributes and assigns to Crucible Intellectual Property, LLC pursuant to and in accordance with the terms of the MTA.

(d) Debtor agrees with regard to the Collateral and Proceeds, unless Creditor agrees otherwise in writing: (i) that Creditor is authorized to file financing statements in the name of Debtor to perfect Creditor’s security interest in Collateral and Proceeds; (ii) to pay when due all license fees, registration fees and other charges in connection with any Collateral; (iii) not to permit any lien on the Collateral or Proceeds; (vii) not to sell, hypothecate or dispose of, nor permit the transfer by operation of law of, any of the Collateral or Proceeds or any interest therein (other than as permitted or required by the MTA and other than sublicenses of the LMT Technology in the course of Debtor’s business or the portion of the LMT Technology licensed to Debtor pursuant to that certain License Agreement with Crucible Intellectual Property, LLC, of even date herewith); (iv) to permit Creditor to inspect the Collateral at any time; (v) to keep, in accordance with generally accepted accounting principles, complete and accurate records regarding all Collateral and Proceeds, and to permit Creditor to inspect the same and make copies thereof at any reasonable time; (vi) from time to time, when requested by Creditor, to prepare and deliver a schedule of all Collateral and Proceeds subject to this Agreement; and (vii) to provide any service and do any other acts which may be necessary to maintain, preserve and protect all Collateral and, as appropriate and applicable, to keep all Collateral in good and saleable condition, to deal with the Collateral in accordance with the standards and practices adhered to generally by users and owners of like property, and to keep all Collateral and Proceeds free and clear of all defenses, rights of offset and counterclaims.

5. **Powers of Creditor.** Debtor appoints Creditor its true attorney in fact to perform any of the following powers, which are coupled with an interest, are irrevocable until termination of this Agreement and may be exercised from time to time by Creditor's officers and employees, or any of them, whether or not an Event of Default has occurred: (a) to perform any obligation of Debtor hereunder in Debtor's name or otherwise; (b) to prepare, execute, file, record or deliver notes, assignments, schedules, designation statements, financing statements, continuation statements, termination statements, statements of assignment, applications for registration or like papers to perfect, preserve or release Creditor's interest in the Collateral and Proceeds; (c) to endorse, collect, deliver and receive payment under instruments for the payment of money constituting or relating to Proceeds; (d) to exercise all rights, powers and remedies which Debtor would have, but for this Agreement, with respect to all Collateral and Proceeds subject hereto; (e) to enter onto Debtor's premises in inspecting the Collateral; and (f) to do all acts and things and execute all documents in the name of Debtor or otherwise, deemed by Creditor as necessary, proper and convenient in connection with the preservation, perfection or enforcement of its rights hereunder. "**Event of Default**" means any breach by Debtor of (a) Section 1(b), 1(c), 2(b) or 8 of the MTA or (b) Section 1(d), 4(c), 4(f), 4(h), 8(g), 8(h), 9(f), 10, 11 or 13 of the MTA; provided that (i) a breach of any section listed in clause (b) shall not constitute an Event of Default where such breach is curable, Debtor has promptly initiated actions to cure such breach, Debtor has vigorously and continuously undertaken to cure such breach and, in any event, such breach is cured within thirty (30) days of Debtor first learning of such breach; and (ii) a breach, whether listed in clause (a) or clause (b), shall not constitute an Event of Default unless such breach could reasonably be expected to have a material adverse effect on Creditor's rights under the Exclusive License Agreement, of even date herewith, between Crucible Intellectual Property, LLC and Creditor.

6. **Payment of Premiums, Taxes, Charges, Liens and Assessments.** Debtor agrees to pay, prior to delinquency, all insurance premiums, taxes, charges, liens and assessments against the Collateral and Proceeds, and upon the failure of Debtor to do so, Creditor at its option may pay any of them and shall be the sole judge of the legality or validity thereof and the amount necessary to discharge the same. Any such payments made by Creditor shall be obligations of Debtor to Creditor, due and payable immediately upon demand, together with interest at a rate determined in accordance with the provisions of this Agreement, and shall be secured by the Collateral and Proceeds, subject to all terms and conditions of this Agreement.



7. **Remedies.** Upon the occurrence of an Event of Default and so long as such Event of Default is continuing, Creditor shall have all other rights, powers, privileges and remedies granted to a secured party upon default under the Uniform Commercial Code or the equivalent body of law in the applicable jurisdiction or otherwise provided by law, including without limitation, the right to sell, lease, license or otherwise dispose of any or all Collateral. All rights, powers, privileges and remedies of Creditor shall be cumulative. No delay, failure or discontinuance of Creditor in exercising any right, power, privilege or remedy hereunder shall affect or operate as a waiver of such right, power, privilege or remedy; nor shall any single or partial exercise of any such right, power, privilege or remedy preclude, waive or otherwise affect any other or further exercise thereof or the exercise of any other right, power, privilege or remedy. Any waiver, permit, consent or approval of any kind by Creditor of any default hereunder, or any such waiver of any provisions or conditions hereof, must be in writing and shall be effective only to the extent set forth in writing. It is agreed that public or private sales or other disposition, for cash or on credit, to a wholesaler or retailer or investor, or user of property of the types subject to this Agreement, or public auctions, are all commercially reasonable since differences in the prices generally realized in the different kinds of dispositions are ordinarily offset by the differences in the costs and credit risks of such dispositions. While Creditor is entitled to exercise its remedies under this Section 7: (a) Debtor will deliver to Creditor from time to time, as requested by Creditor, current lists of all Collateral and Proceeds; (b) Debtor will not dispose of any Collateral or Proceeds except on terms approved by Creditor; (c) at Creditor's request, Debtor will assemble and deliver all Collateral and Proceeds, and books and records pertaining thereto, to Creditor at a reasonably convenient place designated by Creditor; and (d) Creditor may, without notice to Debtor, enter onto Debtor's premises and take possession of the Collateral. With respect to any sale or other disposition by Creditor of any Collateral subject to this Agreement, Debtor hereby expressly grants to Creditor the right to sell such Collateral using any or all of Debtor's trademarks, trade names, trade name rights and/or proprietary labels or marks. Debtor further agrees that Creditor shall have no obligation to process or prepare any Collateral for sale or other disposition. Notwithstanding anything to the contrary set forth in this Agreement, Creditor shall not have any right to foreclose upon or take any other action with respect to the Collateral unless and until an Event of Default has occurred and is continuing, provided that Creditor shall have the right to exercise the powers in Section 5 hereof whether or not an Event of Default has occurred and is continuing.

8. **Disposition of Collateral and Proceeds; Transfer of Obligations.** In disposing of Collateral hereunder, Creditor may disclaim all warranties of title, possession, quiet enjoyment and the like. Any proceeds of any disposition of any Collateral or Proceeds, or any part thereof, may be applied by Creditor to the payment of expenses incurred by Creditor in connection with the foregoing, including reasonable attorneys' fees, and the balance of such proceeds may be applied by Creditor toward the payment of the Obligations in such order of application as Creditor may from time to time elect. Upon the transfer of all or any part of the Obligations, Creditor may transfer all or any part of the Collateral or Proceeds and shall be fully discharged thereafter from all liability and responsibility with respect to any of the foregoing so transferred, and the transferee shall be vested with all rights and powers of Creditor hereunder with respect to any of the foregoing so transferred; but with respect to any Collateral or Proceeds not so transferred, Creditor shall retain all rights, powers, privileges and remedies herein given.

9. **Statute of Limitations.** Prior to the termination of this Agreement pursuant to Section 3 hereof, the power of sale or other disposition and all other rights, powers, privileges and remedies granted to Creditor hereunder shall continue to exist and may be exercised by Creditor at any time and from time to time irrespective of the fact that the Obligations or any part thereof may have become barred by any statute of limitations, or that the personal liability of Debtor may have ceased, unless such liability shall have ceased due to the satisfaction in full of all Obligations secured hereunder.

10. **Notices.** All notices from one party to the other required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page to the MTA (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.

11. **Costs, Expenses and Attorneys' Fees.** Debtor shall pay to Creditor immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of Creditor's in-house counsel), expended or incurred by Creditor in connection with (a) the perfection and preservation of the Collateral or Creditor's interest therein; and (b) the realization, enforcement and exercise of any right, power, privilege or remedy conferred by this Agreement, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Creditor or any other person) relating to Debtor or in any way affecting any of the Collateral or Creditor's ability to exercise any of its rights or remedies with respect thereto. All of the foregoing shall be paid by Debtor with interest from the date of demand until paid in full at a rate per annum equal to the greater of (i) 10% or (ii) "prime rate" as reported in *The Wall Street Journal* in effect from time to time plus two percent.

12. **Successors; Assigns; Amendment.** This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties, and may be amended or modified only in writing signed by Creditor and Debtor.

13. **Severability of Provisions.** If any provision of this Agreement shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or any remaining provisions of this Agreement.

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. The parties hereby consent to jurisdiction and venue in the appropriate state and Federal courts sitting in the Northern District of California in any litigation between them arising out of this Assignment. If any provision of this Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.

15. **Jurisdiction.** In the event of a dispute, either party may commence litigation in the state or federal courts in Santa Clara County, California. The parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction upon final and conclusive judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Each party irrevocably waives to the fullest extent permitted by applicable law (i) any objection it may have to the laying of venue in any court referred to above; (ii) any claim that any such action or proceeding has been brought in an inconvenient forum; and (iii) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process.

[END OF DOCUMENT TEXT; SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, this Agreement has been duly executed as of August 4, 2010. Each of the persons signing this Agreement affirms that he or she is duly authorized to do so and thereby to bind the indicated entity. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**LIQUIDMETAL TECHNOLOGIES, INC.** a  
Delaware corporation

By /s/ Tony Chung  
Its Chief Financial Officer

Exhibit A  
Collateral

The "Collateral" shall consist of the following:

- (i) All of Debtor's right, title and interest, whether now existing or hereafter arising, in the "LMT Technology" to the extent not assigned to Crucible Intellectual Property, LLC, a Delaware limited liability company ("Crucible") in accordance with the MTA.
- (ii) The Exclusive License Agreement, dated July \_\_, 2010 between Crucible and Debtor, as the same may be amended, modified, supplemented and amended and restated from time to time.
- (iii) All membership interests of Crucible, now existing and any membership interest of Crucible hereafter issued, all securities or other instruments in addition to, in substitution of, or in exchange for any of such membership interest (whether as a distribution in connection with any recapitalization, reorganization or reclassification, a stock dividend or otherwise), and any distributions of cash or property in respect of the items described in this clause (iii).
- (iv) All Proceeds (as defined in the California Uniform Commercial Code) of the foregoing.

For purposes of the foregoing the following definitions apply:

- (i) "LMT Technology" shall mean any and all Intellectual Property and Intellectual Property Rights that, at any time during the Capture Period, is: (a) owned or licensed (including without limitation sub-licensed) by Debtor or Liquidmetal Coatings, LLC, a Delaware limited liability company ("LMC"), or that Debtor or LMC have a right to use; or (b) owned or licensed (including without limitation sub-licensed) by Crucible, or that Crucible has a right to use, after being transferred to Crucible by Debtor or LMC. For the avoidance of doubt, any Intellectual Property Rights related to or arising from Intellectual Property first created, conceived, invented, or discovered before the end of the Capture Period shall be deemed to be within the definition of LMT Technology. Thus, for example, a patent application or copyright application filed, or any patent issued or copyright registration issued, more than five years after the Closing Date, but that is related to an invention conceived or work created within eighteen (18) months of the date on which the license is granted to Apple pursuant to Section 9(a) of the MTA ("Closing Date"), shall be deemed within the definition of LMT Technology. For purposes of clarification, however, improvements or derivatives of LMT Technology first created, conceived, invented, or discovered after the Capture Period shall not be "LMT Technology" notwithstanding the fact that such improvements or derivatives are derived from, improve, or otherwise relate to LMT Technology. The LMC patents and all LMC trademarks identified in Annex 15 of the MTA are excluded from "LMT Technology."

(ii) “Intellectual Property” shall mean and includes all algorithms, application program interfaces, customer lists, databases, schemata, design documents and analyses, diagrams, documentation, drawings, formulae, discoveries and inventions (whether or not patentable), know-how, literary works, copyrightable works, works of authorship, mask works, logos, marks (including names, logos, slogans, and trade dress), methods, methodologies, architectures, processes, program listings, programming tools, proprietary information, protocols, schematics, specifications, software, software code (in any form including source code and executable or object code), subroutines, user interfaces, techniques, uniform resource locators, web sites, and all other forms and types of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing such as compilations of information, instruction manuals, notebooks, prototypes, reports, samples, studies, and summaries).

(iii) “Intellectual Property Rights” shall mean and includes all past, present, and future rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask works; (b) trademark and trade name rights and similar rights; (c) trade dress rights; (d) trade secret rights; (e) patents and industrial property rights; (f) other proprietary rights in Intellectual Property of every kind and nature; and (g) all registrations, renewals, extensions, combinations, divisions, continuations, continuations in part, reexamination certificates, or reissues of, and applications for, any of the rights referred to in clauses (a) through (f) above.

(iv) “Capture Period” shall mean the period commencing on the Closing Date and ending on the eighteen month anniversary of the Closing Date.

ANNEX 11

**LMT-SPE Security Agreement**

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## SECURITY AGREEMENT

1. **Grant of Security Interest.** For valuable consideration, the undersigned **CRUCIBLE INTELLECTUAL PROPERTY, LLC**, a Delaware limited liability company ("**Debtor**"), hereby grants and transfers to **APPLE INC.**, a California corporation ("**Creditor**"), a security interest in all of the following property of Debtor, now existing or hereafter arising (collectively, the "**Collateral**"): (i) all accounts; (ii) all chattel paper; (iii) all commercial tort claims; (iv) all deposit accounts; (v) all documents; (vi) all equipment; (vii) all general intangibles; (viii) all instruments; (ix) all inventory; (x) all investment property; (xi) all letters of credit and letters-of-credit rights; (xii) all money; (xiii) all other goods not otherwise included in any of clauses (i) - (xii) of this Section 1 and (xiv) all supporting obligations, together with whatever is receivable or received when any of the foregoing or the proceeds thereof are sold, leased, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, including without limitation, all rights to payment, including returned premiums, with respect to any insurance relating to any of the foregoing, and all rights to payment with respect to any claim or cause of action affecting or relating to any of the foregoing (collectively, "**Proceeds**"). The security interest granted pursuant to this Agreement shall be subject and subordinate to all rights, powers and privileges of (a) Creditor, as licensee, under that certain Exclusive License Agreement of even date herewith (the "**Apple License**") between Creditor and Debtor, and (b) Liquidmetal Coatings, LLC, a Delaware limited liability company ("**LMC**"), under that certain Exclusive License Agreement of even date herewith (the "**LMC License**") between Debtor and LMC. Creditor hereby agrees that in the event the security interest granted pursuant to this Agreement shall be enforced and, as a result of such enforcement, any of the Collateral shall be transferred to any person or entity, (i) such person or entity shall acquire or otherwise receive any such Collateral subject to all rights, powers and privileges of Creditor and LMC under the Apple License and the LMC License, respectively, (ii) such acquirer may not interfere with or disturb Apple's or LMC's respective use and enjoyment of their rights, powers and privileges under the Apple License and LMC License, respectively, and (iii) the Apple License and the LMC License shall continue in full force and effect as if such security interest had not been granted or enforced. A term not otherwise defined in this Agreement but defined in the California Uniform Commercial Code ("**UCC**") shall have the meaning ascribed to it in the UCC. LMC and its successor and assigns are intended third-party beneficiaries of the provisions in this Section 1 that relate to LMC or the LMC License Agreement (collectively, the "**LMC Provisions**"); and LMC and its successors and assigns shall have the right to enforce the LMC provisions as if original parties hereto; and no such LMC Provisions may be amended or otherwise modified without first obtaining the written consent of LMC or its successors and assigns, as applicable. Nothing in the preceding sentence shall prohibit or otherwise restrict the Creditor and Debtor from amending or otherwise modifying any provisions of this Agreement that are unrelated to the LMC Provisions; and no such unrelated amendments or modifications shall require that any notice be given to, or that any consent be obtained from, LMC or its successors or assigns.

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2. **Obligations Secured.** The obligations secured hereby are the payment and performance of (a) all present and future obligations of Debtor to Creditor under the Master Transaction Agreement of even date herewith (“*MTA*”), the Exclusive License Agreement of even date herewith, and the other “Transaction Documents” (as defined in the MTA) between Debtor and Creditor, as the same may be amended, modified, supplemented or amended and restated from time to time; and (b) all obligations of Debtor and rights of Creditor under this Agreement, as the same may be amended, modified, supplemented or amended and restated from time to time (the “*Obligations*”). The word “*Obligations*” is used herein in its most comprehensive sense and includes any and all debts, obligations and liabilities of Debtor under the MTA and Transaction Documents, including, without limitation, the obligation to pay damages to Creditor relating to the MTA.

3. **Termination.** This Agreement and the security interests hereunder will terminate upon the earlier of (a) the payment and performance of all obligations of Debtor to Creditor under the Transaction Documents or (b) the second (2<sup>nd</sup>) anniversary of the date of this Agreement; provided that if an Event of Default under this Agreement or an “Event of Default” under the Security Agreement of even date between LMT and Creditor shall have occurred and be continuing on the second (2<sup>nd</sup>) anniversary of the date of this Agreement, this Agreement shall not terminate until such Event of Default has been cured or waived by Creditor. Upon the termination of this Agreement and the security interests hereunder, Creditor will, upon the written request of Debtor, confirm such termination in writing and file (or grant Debtor in writing authorization to file) any termination statements or lien releases necessary to evidence the termination of this Agreement and the security interests hereunder.

4. **Covenants of Debtor.**

(a) Debtor, agrees in general: (i) to indemnify Creditor against all losses, claims, demands, liabilities and expenses of every kind caused by property subject hereto; (ii) to permit Creditor to exercise its powers; (iv) to execute and deliver such documents as Creditor deems necessary to create, perfect and continue the security interests contemplated hereby; (v) not to change its name, and as applicable, its chief executive office, its principal residence or the jurisdiction in which it is organized and/or registered without giving Creditor prior written notice thereof; (vi) not to change the places where Debtor keeps any Collateral or Debtor’s records concerning the Collateral and Proceeds without giving Creditor prior written notice of the address to which Debtor is moving same; and (vii) to cooperate with Creditor in perfecting all security interests granted herein and in obtaining such agreements from third parties as Creditor deems necessary, proper or convenient in connection with the preservation, perfection or enforcement of any of its rights hereunder.

(b) If and when Debtor shall obtain rights to any (i) patents or patent applications; (ii) copyright registrations or copyright registration applications; (iii) mask works or mask work registration applications; (iv) trademark registrations or trademark registration applications; and (v) domain names that is included in the LMT Technology (all of the intellectual property described in clauses (i) through (iv), whether now owned or hereafter acquired, is collectively referred to herein as the “*Registered Intellectual Property*”), Debtor shall notify Creditor of such fact and make all necessary or appropriate filings with respect thereto to cause the security interest in such Registered Intellectual Property to be perfected. Debtor shall promptly and diligently register any such patent, copyright, trademark, service mark, trade name or other proprietary rights of Debtor which is registerable with the applicable governmental or other registration authority. Without the prior written consent of Creditor, Debtor shall not apply to register any copyrightable works or mask works with the U.S. Copyright Office, and any consent to such registration shall be conditioned upon Debtor executing such documents and taking such further actions as Creditor shall reasonably request in its sole discretion to perfect and continue perfected, maintain the priority of or provide notice of, the security interest granted to Creditor under this Agreement in such copyrightable works notwithstanding such copyright registration.



(c) Debtor agrees with regard to the Collateral and Proceeds, unless Creditor agrees otherwise in writing: (i) that Creditor is authorized to file financing statements in the name of Debtor to perfect Creditor's security interest in Collateral and Proceeds; (ii) to pay when due all license fees, registration fees and other charges in connection with any Collateral unless otherwise required by the MTA; (iii) not to permit any lien on the Collateral or Proceeds; (vii) not to sell, hypothecate or dispose of, nor permit the transfer by operation of law of, any of the Collateral or Proceeds or any interest therein (excluding the grant of the licenses provided for in the Apple License Agreement and LMT License Agreement, as those terms are defined in the MTA); (iv) to permit Creditor to inspect the Collateral at any time; (v) to keep, in accordance with generally accepted accounting principles, complete and accurate records regarding all Collateral and Proceeds, and to permit Creditor to inspect the same and make copies thereof at any reasonable time; (vi) from time to time, when requested by Creditor, to prepare and deliver a schedule of all Collateral and Proceeds subject to this Agreement; and (vii) to provide any service and do any other acts which may be necessary to maintain, preserve and protect all Collateral and, as appropriate and applicable, to keep all Collateral in good and saleable condition, to deal with the Collateral in accordance with the standards and practices adhered to generally by users and owners of like property, and to keep all Collateral and Proceeds free and clear of all defenses, rights of offset and counterclaims.

5. **Powers of Creditor.** Debtor appoints Creditor its true attorney in fact to perform any of the following powers, which are coupled with an interest, are irrevocable until termination of this Agreement and may be exercised from time to time by Creditor's officers and employees, or any of them, whether or not an Event of Default has occurred: (a) to perform any obligation of Debtor hereunder in Debtor's name or otherwise; (b) to release or substitute security; (c) to prepare, execute, file, record or deliver notes, assignments, schedules, designation statements, financing statements, continuation statements, termination statements, statements of assignment, applications for registration or like papers to perfect, preserve or release Creditor's interest in the Collateral and Proceeds; (d) to endorse, collect, deliver and receive payment under instruments for the payment of money constituting or relating to Proceeds; (e) to exercise all rights, powers and remedies which Debtor would have, but for this Agreement, with respect to all Collateral and Proceeds subject hereto; (f) to enter onto Debtor's premises in inspecting the Collateral; and (g) to do all acts and things and execute all documents in the name of Debtor or otherwise, deemed by Creditor as necessary, proper and convenient in connection with the preservation, perfection or enforcement of its rights hereunder. "Event of Default" means any breach by Debtor of (a) Section 3(b) of the MTA or (b) Sections 5(a), 5(c), 5(d) or 6 of the MTA or section 4.3 of the Exclusive License Agreement, of even date herewith, between Debtor and Creditor (the "**Apple License Agreement**"); provided that (i) a breach of any section listed in clause (b) shall not constitute an Event of Default where such breach is curable, Debtor has promptly initiated actions to cure such breach, Debtor has vigorously and continuously undertaken to cure such breach and, in any event, such breach is cured within thirty (30) days of Debtor first learning of such breach; and (ii) a breach, whether listed in clause (a) or clause (b), shall not constitute an Event of Default unless such breach could reasonably be expected to have a material adverse effect on Creditor's rights under the Apple License Agreement.

6. **Payment of Premiums, Taxes, Charges, Liens and Assessments.** Debtor agrees to pay, prior to delinquency, all insurance premiums, taxes, charges, liens and assessments against the Collateral and Proceeds, and upon the failure of Debtor to do so, Creditor at its option may pay any of them and shall be the sole judge of the legality or validity thereof and the amount necessary to discharge the same. Any such payments made by Creditor shall be obligations of Debtor to Creditor, due and payable immediately upon demand, together with interest at a rate determined in accordance with the provisions of this Agreement, and shall be secured by the Collateral and Proceeds, subject to all terms and conditions of this Agreement.

7. **Remedies.** Upon the occurrence of an Event of Default and so long as such Event of Default is continuing, Creditor shall have all other rights, powers, privileges and remedies granted to a secured party upon default under the Uniform Commercial Code or the equivalent body of law in the applicable jurisdiction or otherwise provided by law, including without limitation, the right to sell, lease, license or otherwise dispose of any or all Collateral. All rights, powers, privileges and remedies of Creditor shall be cumulative. No delay, failure or discontinuance of Creditor in exercising any right, power, privilege or remedy hereunder shall affect or operate as a waiver of such right, power, privilege or remedy; nor shall any single or partial exercise of any such right, power, privilege or remedy preclude, waive or otherwise affect any other or further exercise thereof or the exercise of any other right, power, privilege or remedy. Any waiver, permit, consent or approval of any kind by Creditor of any default hereunder, or any such waiver of any provisions or conditions hereof, must be in writing and shall be effective only to the extent set forth in writing. It is agreed that public or private sales or other disposition, for cash or on credit, to a wholesaler or retailer or investor, or user of property of the types subject to this Agreement, or public auctions, are all commercially reasonable since differences in the prices generally realized in the different kinds of dispositions are ordinarily offset by the differences in the costs and credit risks of such dispositions. While Creditor is entitled to exercise its remedies under this Section 7: (a) Debtor will deliver to Creditor from time to time, as requested by Creditor, current lists of all Collateral and Proceeds; (b) Debtor will not dispose of any Collateral or Proceeds except on terms approved by Creditor; (c) at Creditor's request, Debtor will assemble and deliver all Collateral and Proceeds, and books and records pertaining thereto, to Creditor at a reasonably convenient place designated by Creditor; and (d) Creditor may, without notice to Debtor, enter onto Debtor's premises and take possession of the Collateral. With respect to any sale or other disposition by Creditor of any Collateral subject to this Agreement, Debtor hereby expressly grants to Creditor the right to sell such Collateral using any or all of Debtor's trademarks, trade names, trade name rights and/or proprietary labels or marks. Debtor further agrees that Creditor shall have no obligation to process or prepare any Collateral for sale or other disposition. Notwithstanding anything to the contrary set forth in this Agreement, Creditor shall not have any right to foreclose upon or take any other action with respect to the Collateral unless and until an Event of Default has occurred and is continuing, provided that Creditor shall have the right to exercise the powers in Section 5 hereof whether or not an Event of Default has occurred and is continuing.

8. **Disposition of Collateral and Proceeds; Transfer of Obligations.** In disposing of Collateral hereunder, Creditor may disclaim all warranties of title, possession, quiet enjoyment and the like. Any proceeds of any disposition of any Collateral or Proceeds, or any part thereof, may be applied by Creditor to the payment of expenses incurred by Creditor in connection with the foregoing, including reasonable attorneys' fees, and the balance of such proceeds may be applied by Creditor toward the payment of the Obligations in such order of application as Creditor may from time to time elect. Upon the transfer of all or any part of the Obligations, Creditor may transfer all or any part of the Collateral or Proceeds and shall be fully discharged thereafter from all liability and responsibility with respect to any of the foregoing so transferred, and the transferee shall be vested with all rights and powers of Creditor hereunder with respect to any of the foregoing so transferred; but with respect to any Collateral or Proceeds not so transferred, Creditor shall retain all rights, powers, privileges and remedies herein given.

9. **Statute of Limitations.** Prior to the termination of this Agreement pursuant to Section 3 hereof, the power of sale or other disposition and all other rights, powers, privileges and remedies granted to Creditor hereunder shall continue to exist and may be exercised by Creditor at any time and from time to time irrespective of the fact that the Obligations or any part thereof may have become barred by any statute of limitations, or that the personal liability of Debtor may have ceased, unless such liability shall have ceased due to the satisfaction in full of all Obligations secured hereunder.

10. **Notices.** All notices from one party to the other required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be delivered in person, or sent by electronic or facsimile transmission for which a confirmation of delivery is obtained, or sent by registered mail or express courier services providing evidence of delivery, in each case to the recipient party's respective address set forth on the signature page to the MTA (or to such updated address as may be specified in writing to the other party from time to time). Such notices will be deemed effective as of the date so delivered or on the third business day following mailing.

11. **Costs, Expenses and Attorneys' Fees.** Debtor shall pay to Creditor immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of Creditor's in-house counsel), expended or incurred by Creditor in connection with (a) the perfection and preservation of the Collateral or Creditor's interest therein; and (b) the realization, enforcement and exercise of any right, power, privilege or remedy conferred by this Agreement, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Creditor or any other person) relating to Debtor or in any way affecting any of the Collateral or Creditor's ability to exercise any of its rights or remedies with respect thereto. All of the foregoing shall be paid by Debtor with interest from the date of demand until paid in full at a rate per annum equal to the greater of (i) 10% or (ii) "prime rate" as reported in *The Wall Street Journal* in effect from time to time plus two percent.

12. **Successors; Assigns; Amendment.** This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties, and may be amended or modified only in writing signed by Creditor and Debtor.

13. **Severability of Provisions.** If any provision of this Agreement shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or any remaining provisions of this Agreement.

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any conflict of laws principles to the contrary. The parties hereby consent to jurisdiction and venue in the appropriate state and Federal courts sitting in the Northern District of California in any litigation between them arising out of this Assignment. If any provision of this Agreement is held to be invalid or unenforceable to any extent in any context, it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.

15. **Jurisdiction.** In the event of a dispute, either party may commence litigation in the state or federal courts in Santa Clara County, California. The parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction upon final and conclusive judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Each party irrevocably waives to the fullest extent permitted by applicable law (i) any objection it may have to the laying of venue in any court referred to above; (ii) any claim that any such action or proceeding has been brought in an inconvenient forum; and (iii) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process.

[END OF DOCUMENT TEXT; SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, this Agreement has been duly executed as of August 4, 2010. Each of the persons signing this Agreement affirms that he or she is duly authorized to do so and thereby to bind the indicated entity. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Crucible Intellectual Property, LLC, a Delaware  
limited liability company

By /s/ Tony Chung  
Its Chief Financial Officer

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ANNEX 12

**Form of Release**

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## RELEASE

This Release (this “*Release*”) is being executed and delivered by the undersigned (each, a “*Releasor*”) in accordance with Section 5(j) of the Master Transaction Agreement, dated August 5, 2010 (the “*Agreement*”) between Apple Inc., a California corporation (“*Apple*”), Liquidmetal Technologies, Inc. a Delaware corporation, Liquidmetal Coatings, LLC, a Delaware limited liability company, and Crucible Intellectual Property, LLC, a Delaware limited liability company. Capitalized terms used in this Release without definition have the respective meanings given to them in the Agreement.

Each Releasor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, hereby agree as follows:

1. Each Releasor acknowledges that execution and delivery of this Release is an obligation of it under the Agreement and that Apple relied on the agreement of such Releasor to execute and deliver this Release in consummating the transactions contemplated in the Agreement.

2. Each Releasor hereby releases and forever discharges Apple, and its respective officers, directors, stockholders, members, managers, subsidiaries, successors and assigns (individually, a “*Releasee*” and collectively, “*Releasees*”) from any and all claims, demands, proceedings, causes of action, orders, obligations, contracts, agreements, debts and liabilities whatsoever, whether known or unknown, suspected or unsuspected, both at law and in equity (“*Claim(s)*”), that the Releasor now has, has ever had or may hereafter have against Releasees arising specifically as a result of any act or omission made by Apple in the exercise by Apple of any right, power or privilege, or in the performance of any obligation, under Section 5(a) of the Agreement; provided, however, that the foregoing release shall not apply to (i) any act or omission made by a Releasee in bad faith, with gross negligence, or with willful misconduct, (ii) any failure by Apple to pay any cost required to be paid by Apple in Section 5 of the Agreement.

3. Each Releasor hereby irrevocably covenants to refrain from, directly or indirectly, asserting any claim or demand, or commencing, instituting or causing to be commenced, any proceeding of any kind against any Releasee, based upon any matter released hereby.

4. Without in any way limiting any of the rights and remedies otherwise available to any Releasee, Releasor shall indemnify and hold harmless each Releasee from and against all loss, liability, claim, damage (including incidental and consequential damages) or expense (including costs of investigation and defense and reasonable attorney’s fees) whether or not involving third party claims, arising directly or indirectly from or in connection with (i) the assertion by or on behalf of the Releasor or any of its affiliates, and its respective officers, directors, stockholders, members, managers or partners, or any other person holding a direct or indirect interest in the Releasor or an affiliate of the Releasor, of any claim or other matter released pursuant to this Release and (ii) the assertion by any third party of any claim or demand against any Releasee which claim or demand arises directly or indirectly from, or in connection with, any assertion by or on behalf of the Releasor or any of its affiliates against such third party of any claims or other matter released pursuant to this Release. In furtherance of this Release, the Releasor waives any right it may have under any statutes and regulations, which states, in substance:

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

5. Each Releasor acknowledges that it has been provided the opportunity to retain counsel of the Releasor's choosing to advise the Releasor regarding this Release or has voluntarily elected not to consult counsel. Releasor represents and warrants that it has not assigned any Claim (or any part thereof) and that Releasor is unaware of any individual or entity asserting an interest or right in or with respect to any Claim.

6. If any provision of this Release is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Release will remain in full force and effect. Any provision of this Release held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

7. This Release may not be changed except in a writing signed by the person(s) against whose interest such change shall operate. This Release shall be governed by and construed under the laws of the State of California without regard to principles of conflicts of law.

8. All words used in this Release will be construed to be of such gender or number as the circumstances require.

9. Facsimile or other electronically delivered copies of the signature page to this Release shall be treated as between the parties as original signatures for all purposes, notwithstanding that the original copy bearing the party's original signature and used to generate the facsimile or other copy transmission is not delivered.

*[Signature Page Follows]*

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IN WITNESS WHEREOF, the undersigned has executed and delivered this Release as of this 4<sup>th</sup> day of August, 2010

**RELEASOR:**

**LIQUIDMETAL TECHNOLOGIES, INC.**

By /s/ Larry Buffington

Its PRESIDENT / CEO

**LIQUIDMETAL COATINGS, INC.**

By /s/ Larry Buffington

Its PRESIDENT / CEO

**CRUCIBLE INTELLECTUAL PROPERTY, LLC**

By /s/ Tony Chung

Its Chief Financial Officer

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**Patent Counsel Engagement Letter**

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Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW | Washington, DC 20037-1122 | tel 202.663.8000 | fax 202.663.8007

Raj S. Davé  
tel 202.663.8228  
raj.dave@pillsburylaw.com

August 2, 2010

Crucible Intellectual Property LLC  
30452 Esperanza  
Rancho Santa Margarita, CA 92688  
Attention: Mr. Ricardo A. Salas

Apple, Inc.  
1 Infinite Loop  
Cupertino, CA 95014  
Attention: Mr. Patrick J. Murphy

Re: Engagement for legal services to be performed by Pillsbury Winthrop Shaw Pittman LLP

Dear Rick and Patrick:

The purpose of this letter is to confirm the terms and conditions of our representation of Crucible Intellectual Property LLC (“Crucible IP”) and Apple Inc. (“Apple”) (collectively “you,” “your”); and to disclose and seek your consent to certain possible conflicts of interest regarding that joint representation. The applicable Rules of Professional Conduct for attorneys, under which we practice, require us to send you this engagement letter. When you have signed and returned to me the enclosed copy of this letter, this will constitute our agreement to perform services for you as set forth below.

#### **1. Nature of the Engagement**

We understand that under that certain Master Transaction Agreement (“MTA”) between Apple and Liquidmetal Technologies, Inc. and its subsidiaries, that it has been agreed therein that Apple shall have the sole and exclusive right, in the United States and other jurisdictions around the world, to control patent prosecution for inventions, current and future patent applications and patents that have been or will be assigned to Crucible IP. Section 5(c) of the MTA provides that Crucible IP and Apple will execute an engagement letter in the form of this engagement letter, retaining patent counsel to represent both Apple and Crucible IP with respect to such patent applications. This engagement letter is the engagement letter referred to in Section 5(c) of the MTA.

www.pillsburylaw.com

Patent Counsel Joint Engagement LettervFINAL

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In connection with this engagement, you hereby instruct us to set up a joint customer number in the United States Patent Office for Apple and Crucible IP to allow Apple and Crucible IP to monitor prosecution activities for all patent applications within the United States.

You further instruct us to prepare and send to Apple and Crucible IP a quarterly patent prosecution report that will include such matters as each of Apple and Crucible IP shall direct and shall include, without limitation: (i) information identifying invention disclosures on which Apple has decided not to file patent applications, and stating whether such inventions shall be treated as trade secrets or whether Crucible IP is free to pursue patent protection thereon at its own expense using other counsel, and to file patent applications; (ii) jurisdictions where Apple has decided to file patent applications; (iii) which patent applications Apple has decided to let go abandoned; (iv) any continuations, continuation-in-parts, or divisional applications Apple has decided to file, and (v) what fees (including without limitation, issue fees, publication fees, maintenance fees, grant fees and annuity fees) Apple intends not to pay.

We understand that while Crucible IP will provide materials for preparing, filing and prosecuting new patent applications, and will respond to requests for material, information and assistance as we may make from time to time in connection with our representation, Apple alone will give us instructions in connection with our representation of Crucible IP.

For the sake of clarity, we have advised that Pillsbury does not handle the payment of maintenance fees or annuities on granted US or foreign patents. If you do not already have an arrangement for handling these payments, we suggest that you engage Computer Patent Annuities ("CPA") or other vendor directly to handle monitoring and payment of your annuities. CPA presently handles approximately 1,000,000 renewal payments each year and has relationships with patent and trademark offices in every country in the world. CPA is in no way affiliated with Pillsbury, and other maintenance fee and annuity service companies are also available if you would like to explore other vendors. Of course, you can attend to these payments yourself (without use of a vendor), but we recommend against this approach. Please inform us as soon as possible which vendor you currently use or plan to engage for payment of maintenance fees and annuities on granted patents so that we may update our records accordingly.

Our joint representation of Crucible IP and Apple gives rise to specific issues, discussed below.

## 2. Conflicts of Interest

**Actual conflicts:** Because of the proliferation today of companies affiliated through common or partial ownership, and the problems this can create in identifying potential conflicts of interest, we advise our clients that this Firm will not regard any affiliate of a client (*i.e.*, parent, subsidiary or other related entity) as a client of the Firm for any purpose, unless an attorney-client relationship with that affiliate has been established by an express written agreement with the Firm. Similarly, the Firm will not regard a representation that is adverse to an affiliate of a client as being adverse to the client. In this regard, it is specifically understood and agreed that Liquidmetal Technologies, Inc. and its other subsidiaries and affiliates (LMT), are adverse parties in connection with the MTA referred to above, that Pillsbury has and is representing Apple in connection with the MTA and related matters adverse to LMT. It is, therefore, specifically agreed and acknowledged that this engagement to represent Crucible IP shall not and does not constitute an engagement to represent LMT or any other affiliated company and that it does not constitute a conflict of interest for Pillsbury to continue to represent Apple in any and all matters adverse to LMT.

Based on the information provided to us, we do not believe that this limited representation of Apple and Crucible IP as joint clients on the designated patent matters involves an actual conflict of interest since your interests in the patent portfolio are sufficiently aligned and where they may differ you have made arrangements between you for how that will be handled. If you are aware of any actual conflict of interest, please let us know immediately.

We have discussed with you the other areas of potential conflicts, which are briefly referred to below. In light of these potential conflicts, we need written consent from both Crucible IP and Apple.

**Potential conflicts:** Even though there may be no actual conflict, there are potential conflicts. Differences in your interests and objectives that may develop over time could make one approach more favorable to one or the other, or could lead to disputes between the two of you. In representing multiple clients, it is understood that we will be balancing interests rather than asserting the interests of only one party. While this potential conflict is unlikely to develop into an actual conflict, given the fact that Apple will have sole and exclusive right to control patent prosecutions, you should be aware of the possibility.

Under the applicable Rules of Professional Conduct relating to representation of multiple clients where there may be actual or potential conflicts of interest between or among them, as noted above, we must obtain your written consent to the joint representation. This letter, when executed, will confirm our agreement and your consent to our firm's representation of both Crucible IP and Apple in the referenced matter, and your waiver of the potential conflicts of interest that this joint representation poses. In this regard, as sophisticated consumers of legal services and with your own in-house and outside counsel, we must nevertheless briefly discuss the pros and cons of the requested waiver.

**Implications of joint representation for privileges:** In addition to dealing with potential disagreements as to strategies and tactics, a joint representation has implications on the attorney client privilege and confidentiality. As to the attorney client privilege, the prevailing rule is that as between commonly represented clients, the privilege does not attach. Hence, should any future dispute between Crucible IP and Apple concerning this engagement lead to litigation, the privilege will not protect such communications on the subject of the joint engagement that were commonly shared. As to confidentiality, neither Apple nor Crucible IP should have any expectation that information provided to us in connection with this engagement will be kept confidential from the other. While we will protect your confidences against disclosure to third persons, you should not expect that information provided to us in connection with this specific engagement will be kept confidential from Apple or Crucible IP. Because we will have the same duty of loyalty to each, such information will be shared and the Firm conceivably could have to withdraw if one of you decides that some matter material to the representation should be kept from the other.

Further, in light of the fact that the Firm is already counsel to Apple as previously noted, in the event of any dispute between you regarding our engagement, Crucible IP agrees that we may continue to represent Apple and may withdraw from representing Crucible IP, and may use in the continuing representation of Apple any information that we learned during the course of joint representation.

In addition, as you know, the Firm represents many different clients with diverse interests. Many of our clients compete with one another and do business with one another. As discussed above, we are precluded by the Rules of Professional Conduct from representing a client in a matter in which the client's interests are adverse to the interests of another client of the firm, even if those matters are totally unrelated to each other, absent the written consent of both clients. In the future, we may be asked to represent another client in a transaction or dispute adverse to Crucible IP, where that transaction or dispute is unrelated to the matter involved in this representation. For that circumstance, we also ask that Crucible IP give us advance consent at this time to any such representation and that it waive any conflicts that such a representation would present.

By signing the consent set forth below, each of you agrees to our joint representation of each of you in this engagement and agrees not to assert any conflict of interest based upon this joint representation, notwithstanding any adversity that may develop.

### **3. Fees, Costs, Billing Policies and Procedures.**

It is our understanding that Apple will be solely responsible for payment of any and all fees and expenses incurred during the course of the joint representation, pursuant to the current terms of the Firm's representation agreement with Apple. You have not asked us to be involved in any respect in giving advice concerning the financial arrangements between you as to this joint engagement. We will, therefore, proceed by submitting our invoices for payment directly to Apple, unless and until we receive written notice from both Crucible IP and Apple setting forth and agreeing to a different arrangement.

**4. Termination.**

Apple may terminate our representation at any time, with or without cause, by providing written notice to us.

We have the right to withdraw from our representation of Crucible IP subject to any applicable professional responsibility rules. In addition, certain circumstances may arise that require us to withdraw from continuing to represent a client. We will identify in advance and discuss with both Crucible IP and Apple any situation that might require or lead to our withdrawal from representation.

**5. Return of Files and Other Materials at Completion of Engagement.**

If this engagement is terminated by Apple under paragraph 4 above, Crucible IP's papers and any of their other property will be returned promptly upon our receipt of a written request from Crucible IP for their return. At our own expense, we may retain a copy of all files, records and documents involving the matter. A copy of all such material may also be provided to Apple, upon Apple's request.

Otherwise, at the completion of this engagement, either of you may request the return of any client papers, files and other property in our possession. Such a request should be made in writing. In working on the engagement, we will preserve communications and documents in either hard-copy or electronic form, depending on the circumstances. If you do not request the return of such materials, we will maintain them only for a period of five (5) years, after which time you agree that we may dispose of them. Prior to disposal of such materials, we will endeavor to advise you in writing, at the last known address in our files, of our intent to do so and give you another opportunity to request the materials if you so desire. Any disposal will be made in a confidential manner. You agree to pay for all time and costs related to identification, review and return to you of any materials, including as may be necessary duplicates for each client. At our sole discretion and expense, we may make and keep a copy of any materials being returned to you.

**6. Arbitration of Disputes.**

If you have any concern as to any matter related to or arising out of this engagement, including the nature and quality of our services, please discuss any such questions or concerns with us. Typically, such questions or concerns can be resolved to the satisfaction of all parties with little inconvenience or formality. In the event any dispute cannot be resolved informally, you agree to resolve any and all disputes with the Firm, or with any of our lawyers or staff arising from or relating to our work for you under this engagement, exclusively through private and confidential binding arbitration before the American Arbitration Association, under the rules for commercial disputes, before one neutral arbitrator for any dispute where the claim is less than \$100,000, or before three neutral arbitrators for any larger dispute.

**7. Review and Return of Letter.**

We ask that you each review this letter carefully and let us know if there is any provision that you do not understand. If the terms of this letter are acceptable, please sign the enclosed copy of this letter and return it to me. We recommend that you keep a signed copy of this letter in your files. If you have questions or concerns about any aspect of our services or the relationship at any time, please do not hesitate to contact me.

We are pleased to have this opportunity to be of service and look forward to working with you on this engagement.

Very truly yours,

PILLSBURY WINTHROP SHAW PITTMAN LLP

Raj S. Davé, D.Sc.  
Partner

Accepted and agreed to:  
CRUCIBLE INTELLECTUAL PROPERTY, INC.

By: /s/ Tony Chung  
Name: Tony Chung  
Title: Chief Financial Officer

Date: 8/4/10

Accepted and agreed to:  
APPLE, INC.

By: /s/ Zadesky  
Name: Zadesky  
Title: VP Product Design

Date: 8/5/10



ANNEX 14

**Due Diligence Checklist**

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## DUE DILIGENCE REQUEST LIST

Please provide us with the documents referred to below for Liquidmetal Technologies, Inc. (“LMT”) and each of its subsidiaries and predecessors. (Unless the context otherwise requires, all references to the “Company” include LMT and each of its subsidiaries and predecessors.) Except where a list, schedule or description is requested, please provide us with a **copy** of the requested agreement, correspondence or other document. Please do **not** provide any “**privileged**” documents; however, please indicate whether any “privileged” documents have been withheld. In addition, you do not need to provide any documents that have been filed with the Securities and Exchange Commission (“SEC”) by the Company, as those documents are deemed to have been provided by you regardless of whether or not you otherwise deliver copies thereof. With respect to any requests below for a copy of an agreement and/or contract, you are not being asked to provide any agreements under which LMT no longer has any material obligations, rights, or potential liability, as of July 1, 2010 except where we otherwise specifically request any such agreements and/or contracts.

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**Notes**
**I. GENERAL CORPORATE MATERIALS**

**A.** List of assumed names, division names or other names under which the Company is conducting or has conducted business.

Schedule I.A (1.19)

**B.** List of all jurisdictions in which the Company (i) owns, stores, leases or licenses properties or assets, (ii) has employees, agents or customers, (iii) is qualified to do business or (iv) conducts business. Provide evidence of qualification to do business where material, where property interests are held or where the Company’s business is otherwise conducted.

Schedule I.B (1.20)

**C.** List of all present and former subsidiaries of the Company, including the name and address of such subsidiary’s headquarters (including entities in which the Company own less than 100%).

Schedule I.C (1.3)

**D.** A copy of the charter documents and bylaws with all amendments to date of the Company.

Delaware Corporate Bylaws (1.1)

Delaware Filing (1.2)

LMC – Operating Agreement – 2007 (1.8)

LMCS – Operating Agreement – 2007 (1.9)

LMC – Operating Agreement – First Amendment – 2008 (1.10)

LMC – Operating Agreement – Amendment – Oct 2009 (1.21)

LMC – Operating Agreement – Amendment Apr 2010 (1.15)

LMG – Articles of Incorporation (1.11)

LMG – Bylaws (1.12)

**E.** List of directors and officers of the Company.

Schedule I.E. (1.4)

F. All minutes of meetings of directors, committees of directors and stockholders of the Company since January 1, 2005.

**Notes**

BOD Minutes – 2005 (1.25)

BOD Minutes – 2006 (1.24)

BOD Minutes – 2007 (1.23)

BOD Minutes – 2008 (1.22)

BOD Minutes – 2009 (1.13)

BOD Minutes – 2010 (1.16)

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G. Any due diligence report prepared for the Company or with respect to the Company, to the extent available.

None

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H. Press releases relating to the Company not otherwise posted on the Company’s website.

None

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I. All material documentation relating to the Company’s disclosure and internal controls and procedures, including any related attestations, reports, correspondence or written materials.

Foley & Lardner Letter – 2010.04 (1.14)

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J. All charters of committees and subcommittees of the Board (including Audit, Compensation, Nominating / Corporate Governance, Disclosure and any other committees).

Audit Committee Charter 2007 (1.5)

Comp Committee Charter 2007 (1.6)

Corp Gov & Nom Comm Charter 2007 (1.7)

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K. Company representation letters to auditors (last two years).

Rep letter – LMT – 2008 YE (1.17)

Rep letter – LMT – 2007 YE (1.18)

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**II. SECURITY-RELATED MATTERS**

A. A capitalization schedule setting forth the number of authorized, issued, outstanding and treasury shares of each class of securities of the Company.

Schedule II.A (2.8)

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B. Copies of private placement memoranda or offering circulars relating to sales of debt or equity securities and any purchase agreements, indentures or other agreements governing the terms of any indebtedness incurred by the Company or its subsidiaries (excluding any PPM or offering circular comprised solely of the Company’s filed SEC reports) for offerings or sales of equity or debt securities made during the prior 2 years.

None

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C. Copies of any agreements relating to the election of directors.

See I.D. – Delaware Filing (1.2)

Certificate of Designation (2.1)

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D. Copies of all agreements relating to repurchases, redemptions, exchanges, conversions or similar transactions.

See III.D

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E. Copies of all agreements and instruments containing restrictions on transfer, encumbrances upon, or other restrictions with respect to, the capital stock of the Company.

None

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Notes

**III. DEBT AGREEMENTS; INVESTMENTS**

**A.** List of banks or other lenders with which the Company have a financial relationship and brief description of the nature of relationship, e.g., lines of credit, etc.

Schedule III.A (3.32)

LMC – Enterprise Bank Agreements and 8-K (3.31)

Please note the following are uploaded but are early drafts of the Enterprise documents above: Credit Agreement – Liquidmetal Coatings (3.20); Term Note (3.21); Revolving Credit Note (3.22); Security Agreement – Liquidmetal (Coatings) (3.23)

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**B.** Lines of credit and any other loan agreements, promissory notes or guarantees, letters of credit, security agreements, pledge agreements, equipment leases, including any amendments or renewals, etc.

Schedules III.A and B (3.32 and 3.33)

Toyota Loan (3.18)

Hyster Forklift Lease (3.17)

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**C.** Summary of all currently outstanding interest rate or foreign currency swaps, caps, options, forwards or other derivative instruments or arrangements to which the Company is a party.

None

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Notes

**D.** All instruments evidencing debt obligations and all agreements and material correspondence relating thereto. Any other actual or contingent indebtedness (*e.g.*, loan guarantees, letters of credit, mortgages, liens, pledges, indemnifications, banker's acceptances, swaps, other derivative agreements relating to indebtedness, or other encumbrances of any nature whatsoever) and all agreements and material correspondence relating thereto.

Form of Senior Secured Convertible Note (3.1)

Fort Mason Master Original Notes (3.38 – 3.40)

Fort Mason Partners Original Notes (3.41 – 3.43)

Tail Wind Fund Original Notes (3.44 – 3.46)

Solomon Strategic Holdings Original Notes (3.47 – 3.49)

Castlerigg Master Original Notes (3.50 – 3.52)

Diamond Opportunity Original Notes (3.53 – 3.55)

Rockmore Original Notes (3.56 – 3.58)

BridgePointe Original Notes (3.59 – 3.61)

Rodd Friedman Original Notes (3.65 – 3.67)

M Neugeboren Original Notes (3.68 – 3.70)

E Neugeboren Original Notes and Lost Affidavit (3.71 – 3.73)

Wynnefield LPI Original Notes (3.74 – 3.76)

Wynnefield LP Original Notes (3.77 – 3.79)

Wynnefield Offshore Original Notes (3.80 – 3.82)

Vestal Lost Affidavits & 5-1-10 Original Note (3.83)

Norden 2010 Original Note (3.84)

R Salas – Lost Affidavit bridge note (3.85)

Security Agreement (3.2)

Registration Rights Agreement (2.5)

Form of Common Stock Purchase Warrant for Noteholders (2.6)

Note – 2006.12.01 (Sub Note) (3.5)

Debt Schedule 04 30 2010 (3.25)

Norden – Subordinated Promissory Note (3.28)

Norden – Subscription Agreement (3.29)

Debt Schedule 06 30 2010 (3.34)

**Notes**

**E.** Any other agreements relating to financing arrangements by the Company or its subsidiaries, including any guarantees, sale and leaseback arrangements and mortgages.

LQMT – Series B Terms Sheet (2.7)

**F.** All notices of default or noncompliance from lenders during the last year relating to such debt instruments (excluding separately dated default notices for the same default for which at least one notice was provided) and all compliance reports submitted by the Company or its accountants.

See IV.B

**G.** Correspondence with lenders, including waivers, compliance certificates and opinions of counsel regarding compliance or non-compliance with debt obligations, other than with respect to correspondence older than June 1, 2008 for obligations no longer in default.

See IV.B

LMC Borrowing Base Certificate 04.26.10 (3.19)

**H.** All agreements regarding obligations or liabilities of the Company as a guarantor, surety, co-signer, endorser, co-maker, indemnitor or otherwise in respect of the obligation of any other person or entity.

See III.A, B and D

**I.** All agreements by which the Company is obligated or required to provide, or under which the Company is currently providing, funds in the form of a loan, capital contribution or otherwise.

See VI.F for LMCSI Joint Venture Agreement – 2010.05.04 (6.12)

**J.** All loan agreements, intercompany notes and guarantees between the Company and any of its employees or affiliates.

Schedule III.J (3.16)

**K.** Correspondence relating to any violations, waivers, consents and releases from any restrictive covenants.

See IV.B

**L.** Material correspondence with any current creditor of the Company.

See IV.B

Signed payoff – Hana 7-7-10 (3.35)

C3 Letter – 2010.05.05 (3.30)

**M.** Compliance certificates, including borrowing base certificates and covenant compliance calculations, supplied by the Company to any creditor.

See III.G

**N.** Lien searches or other evidences as to outstanding financing statements or other notices of liens.

UCC Report (3.3)

LMC UCC Term – calif\_20100716144119 (3.36)

LMC UCC Term – alab\_20100716144041 (3.37)

**IV. LITIGATION AND CONTINGENT LIABILITIES**

**A.** Summary of any known contingent liabilities or material commitments of the Company, excluding any liabilities or commitments that individually involve an amount less than \$10,000.

None

Notes

**B.** List and description of all concluded, pending or threatened litigation (to the extent such threatened litigation is known to the Company), governmental proceedings, investigations, arbitration proceedings, orders, judgments, or other potential claims, disputes, investigations or proceedings relating to the Company’s employees, but only to the extent that any such matters were pending at any time since January 1, 2005.

Schedule IV.B (4.7)

SanDisk Payoff (4.1)

Sandisk release 6-10 (4.4)

Hana Final Judgment (4.2)

Caltech – 2010.04 (4.3)

Caltech – Fisher-Adams, Grace – 2010.06.25 (4.5)

SanDisk Termination of Lien – Filed 2010.06.14 (4.6)

Provide the correspondence regarding any pending or threatened suits, actions, proceedings or governmental actions, proceedings or inquiries; copies of initial pleadings (complaint, answer, demurrers) and any judgments, decrees or orders to which the Company is bound or by which any of the Company’s business practices are restricted. If there are matters you have previously listed or materials you have already provided in response to another section that would also fall into this section, you may cross reference that section.

None

**C.** List and description of all pending or threatened government or other investigations relating to the Company and provide all reports to, notices from, or correspondence, from the prior five fiscal years and the current fiscal year.

See IV.B

**D.** All attorneys’ letters to accountants relating to pending or threatened litigation or other contingencies relating to the Company for the past three years.

None

**E.** Any existing opinions of or correspondence with counsel as to pending litigation involving the Company.

**F.** All management letters from the Company’s independent registered public accounting firm to the Company concerning internal accounting procedures or controls in connection with the current audit and any other audit conducted in the past five years.

None

**G.** Correspondence concerning inquiries from governmental (i) tax authorities, or (ii) authorities regarding equal opportunities violations, antitrust violations, or violations of any other law, rule or regulation.

Notice on payroll tax delinquency\_LMT (9.8)

Notice on remaining payroll tax due (9.11)

See IV.B, G

**H.** Any settlement documentation regarding any of the foregoing.

Landlord Rent Settlement (4.8)

**V. COMPLIANCE WITH LAWS**

**A.** All inspection or regulatory reports, citations and notices received from government agencies or self-regulatory organizations relating to the Company.

None

**B.** List of all material governmental permits, franchises, licenses, clearances, permissions and approvals relating to the Company (collectively, “Permits”), together with information regarding any such Permits which have been canceled or terminated, required to carry out the business or operations of the Company, including such Permits required by foreign, federal, provincial or local authorities, and any evidence of exemption from such permit or license requirement. Copies of all Permits.

None

**C.** All correspondence with any third party who has alleged unfair competition by the Company.

None

**Notes**

**D.** List of all pending or contemplated disputes, proceedings, requests for information or other actions or activities affecting or relating to any Permit.

None

**E.** Provide details of all pending or completed governmental audits, cases, etc. for the last three years and identify the governing country in each such case.

None

**VI. MATERIAL CONTRACTS**

**A.** Copies of all contracts with customers, suppliers and any other third parties pursuant to which the Company would expect to receive or pay more than \$100,000 over the life of the contract.

LQMT – LLPG, Inc. License Agreement – 2003 (6.10)

LQMT – LLPG License Agreement – First Amended (6.4)

LLPG Letter – Final Signed (6.21)

LQMT – GM License Agreement (6.5)

GM Letter – Final Signed (6.23)

LQMT – LSI License Agreement (6.6)

LQMT – The Swatch Group License Agreement (made available at LQMT's office in RSM, California)

LLPG Amendment Letter – 2010.07.29 (6.22)

**B.** Research and development agreements.

ENGEL\_Machinery\_Inc\_LiquideMetal\_Technologies\_Inc\_Agreement – 2010.02.04 (6.1)

**C.** Technical cooperation agreements.

See VI.B

**D.** Copies of all outstanding and unfulfilled purchase orders.

See VI.E as examples

LMT Outstanding Vendor PO's – 2010.06.14 (6.18)

LMC Outstanding Vendor PO's – 2010.06.14 (6.19)

**E.** Samples of all forms of purchase orders, invoices, etc.

Example of Customer Quotation and PO's – Asulab (6.13)

Example of Customer Quotation and PO – Biolase (6.14)

Example of Customer Quotation and PO's – Cochlear (6.15)

Example of Vendor PO – TAFA (6.16)

Example of Vendor PO – Powder Alloy Corp (6.17)

**F.** Copies of any joint venture, joint development, partnership or other type of strategic agreement.

LSI JV Agreement (6.9)

LMCSI Joint Venture Agreement – 2010.05.04 (6.12)

**G.** Copies of all agreements with distributors, dealers and sales representatives.

None

**H.** Any documents relating to current investments in other companies or entities, acquisitions of companies, assets or disposition of assets.

See I.D. for LMC documents and VI.F



I. Copies of any other contracts, agreements or documents that the Company believes is material to the business.

Notes

LQMT – Caltech License Agreement (6.3)

Gyeonghi Land lease (6.20)

See VI.A

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J. Copies of any term sheets, letters of intent, or similar documents relating to any pending transaction that involves an amount in excess of \$10,000.

LQMT – WC Heraeus LOI 05.11.10 (6.11)

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**VII. HUMAN RESOURCES – BACKGROUND**

**A. Company Workforce**

1. Organizational chart of the Company, including titles and locations.
2. Current roster of employees providing services in connection with the conduct of the Company’s business by location, including job title, full-time/part-time/temporary status, department and start date.
3. List of all independent contractors/consultants/agents providing services in connection with the conduct of the Company’s business and rate of compensation and other benefits (including option information) and location.
4. Listing of employees providing services in connection with the conduct of the Company’s business who require immigration sponsorship by office and department, current type of work authorization and country of origin.

LQMT – Org Charts (7.1)

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Employee List (7.4)

Employee List – Updated – 2010.07.08 (7.7)

Employee Resignations and Terminations (7.5)

LMC – Temporary Employees (7.6)

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Schedule VII.A.3 (7.3)

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Schedule VII.A.4 (7.8)

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**VIII. FINANCIAL STATEMENTS**

A. All financial statements and related reports, including balance sheets, for the last three years and any interim period prepared for the Company. [Refer to SEC filings.]

Draft 10-K (8.1)

2009 10-K Updated Draft (8.10)

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B. Description of any known liability not revealed in the financial statements described in XII(A) above.

None

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C. List of any off balance sheet liabilities not appearing in most recent annual financial statement (including the notes thereto).

None

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D. Accounts receivable aging report, including customer names, as of the close of the last calendar month.

AR Customer List 4-30-10 (8.3)

AR Customer List 6-30-10 (8.2)

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E. Accounts payable aging report, including vendor or supplier name, as of the close of last calendar month.

AP List 4-30-10 (8.4)

AP List 6-30-10 (8.7)

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F. Accounts payable and accrued expenses detail by category.

Provided to D&T

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G. Schedule of all inventory.

Inventory 4-30-10 (8.5)

Inventory 6-30-10 (8.8)

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H. Fixed Assets ledger identifying asset, date of acquisition, purchase price, depreciation period/useful life, and book value as of most recent balance sheet date.

Fixed asset list 4-30-10 (8.6)

Fixed asset list 6-30-10 (8.9)

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**Notes**

**I.** Any applicable U.S. Sarbanes-Oxley Act testing and compliance materials and documentation.

None

**J.** Summary of all accounting policies and procedures, detailing reserve methodologies and accounting methods. Detail should include, at a minimum, the following policies: accounts receivable reserve policy, bonus policy, commission policy, fixed asset capitalization policy (lives and capitalization limits), inventory reserve policy, revenue recognition policy, sales returns policy, vacation policy and warranty policy.

Draft 10-K (8.1)

2009 10-K Updated Draft (8.10)

**IX. TAX MATERIALS**

**A.** For prior five years, provide the following:

**1.** Listing of all office locations

Schedule IX.A.1 (9.12)

**2.** Bulk sales returns for any major asset sale

None

Notes

**B.** For most recent five years:

- LMT Federal Income Tax Return 2004 (9.15)
- LMT Federal Income Tax Return 2005 (9.14)
- LMT Federal Income Tax Return 2006 (9.6)
- LMT Federal Income Tax Return 2007 (9.5)
- LMT Fed tax 2008 – Final (9.30)  
(supersedes LMT Federal Income Tax Return 2008 – draft (9.10))
- LMC – Income Tax – 2007 (9.13)
- LMC – Income Tax – 2008 (9.3)  
(supersedes LMC – Income Tax – 2008 (draft) (9.4))
- LMC – Income Tax 2009 (9.1)
- LMT CA Tax – 2007 (9.21)
- LMT CA Tax – 2006 (9.16)
- LMT CA Tax – 2005 (9.19)
- LMT CA Tax – 2004 (9.20)
- LMT CA Tax – 2003 (9.22)
- LMT TX Tax 2007 (9.29)
- LMT TX Tax 2006 (9.28)
- LMT TX Tax 2005 (9.27)
- LMT TX Tax 2004 (9.26)
- LMT TX Tax 2003 (9.25)
- LMC AL Tax 2007 (9.32)
- LMC AL Tax 2008 (9.33)
- LMC AL Tax 2009 (9.34)

**1.** Federal and state income tax returns

- LMTK Tax return 2009 (9.17)
- LMTK Tax return 2008 (9.18)
- LMTK Tax 2007 (9.23)
- LMTK Tax 2006 (9.24)
- LMTK Tax 2005 (9.31)

**2.** foreign income tax returns

**C.** For prior two years, provide the following:

- 1.** List of all individuals providing services to the Company receiving W-2s
- 2.** List of all 1099 Recipients providing services to the Company

- See VII.A.2
- LMT 1099 Consultants (9.2)

**Notes**

<p><b>D.</b> Detail of recent tax notices, including taxing authority, issues status of resolution.</p>	<p>Schedule of Tax Due (9.7)</p>
<p><b>E.</b> Description of any pending or potential issues with tax authorities (including a list of all tax examinations currently in process). Copies of all notices, assessments, deficiencies, or adjustments (proposed or final), and any agents' or examiners' reports received by the Company.</p>	<p>Notice on payroll tax delinquency_LMT (9.8)</p> <p>Notice on remaining payroll tax due (9.11)</p> <p><u>Federal Tax Receipt (9.9)</u></p>
<p><b>F.</b> Detail of audits including taxing authority, issues raised and status. For closed audits, a copy of closing agreement.</p>	<p><u>See IX.D</u></p>
<p><b>G.</b> Any correspondence with tax authorities regarding disputed amounts or positions within the last 4 years.</p>	<p><u>None</u></p>
<p><b>H.</b> Deficiency assessments filed against the Company by federal, state or local tax authorities and the resolution of such deficiency (if any).</p>	<p><u>None</u></p>
<p><b>I.</b> Any agreements waiving or extending the statute of limitation for deficiency assessments or in connection with federal, state or local tax matters.</p>	<p><u>See IX.D</u></p>
<p><b>J.</b> Closing letters and any other material IRS documents and tax assessment documents including, for example, rulings obtained and accounting method changes applied for.</p>	<p><u>None</u></p>
<p><b>K.</b> Schedule of taxes payable by the Company.</p>	<p><u>None</u></p>
<p><b>L.</b> List of jurisdictions where indirect tax returns are filed and a copy of all returns filed for the last 12 months.</p>	<p><u>Schedule of Tax Due (9.7)</u></p>
<p><b>M.</b> All intercompany tax sharing or tax indemnification agreements.</p>	<p><u>None</u></p>
<p><b>N.</b> Details on any governmental, public or private entities providing incentives, assistance or loans programs in which the Company has participated.</p>	<p><u>None</u></p>
<p><b>X. <u>CUSTOMER, MARKETING AND OTHER BUSINESS MATTERS</u></b></p>	
<p><b>A.</b> Customer Matters:</p>	<p>LQMT – List of Customers (10.1)</p>
<p><b>1.</b> List of all active customers and customers for the previous two years,.</p>	<p><u>LMC – Top Material Customers – 2009-10 (10.5)</u></p>
<p><b>2.</b> Copies of active customer agreements and commitments.</p>	<p><u>See VI.E. as example</u></p>
<p><b>3.</b> Summary of bad debts, accounts receivable summary detailing account balances and reserves, accounts receivable aging.</p>	<p>Bad Debts 4-30-10 (10.11)</p> <p><u>Bad Debts 6-30-10 (10.13)</u></p>

Notes**B. Marketing Arrangements:**

1. All agreements or arrangements related to the research, development, manufacturing, testing, marketing, etc. of the Company's products, such as joint development agreements, partnership agreements, agency agreements, manufacturer representation agreements technology exchange agreements, agreements with suppliers and vendors, agreements with subcontractors and component parts manufacturers, agreements with testing laboratories, agreements with foundries or similar agreements.

See VI.B

Liquidmetal EMI MOU (10.4)

HEAD Sports Agreements (10.2)

2. Listing of all co-branding, private label, alliance, joint venture, partnerships, co-marketing, distribution, content syndication, licensing, equity or debt relationships, or similar agreements with other companies used by the Company. Copies of all joint venture, co-branding and joint marketing agreements (including any side letters or oral agreements).

See VI.A and F, X.B.1

3. Copies of all contracts with any municipality, state or federal government.

SBIR NO4-168 (10.3)

4. Copies of all standard Company sales forms or literature, including price lists.

See VI.E

5. List and general description of commission or other compensation arrangements with sales personnel.

Schedule X.B.5 (10.14)

LMC Sales Employment Agreement May 2009 (10.7)**C. Other Business Matters:**

1. Copies of all product warranties and listing of warranty claims, reserves and expenses.

Warranty Accrual 4.30.10 (10.10)

Warranty Accrual 6.30.10 (10.12)

See VI.1 – Specifically the following;

LQMT – LLPG, Inc. License Agreement – 2003 (6.10)

LQMT – LLPG License Agreement – First Amended (6.4)

LLPG Letter – Final Signed (6.21)

LQMT – GM License Agreement (6.5)

GM Letter – Final Signed (6.23)

LQMT – LSI License Agreement (6.6)

2. Any agreement or arrangement (whether written or unwritten or intended to be legally enforceable or not) restricting or that may restrict the business activities or sale of any assets of the Company (including but not limited to non-competition, exclusive territory, non-solicitation, non-disclosure or other similar restrictions).

LQMT – The Swatch Group License Agreement (made available at LQMT's office in RSM, California)

3. A list of the Company's major suppliers.

Top Supplier List (10.9)

4. Standard customer credit terms and any significant variations in practice.

Schedule X.C.4 (10.6)

Standard Sales Terms (10.8)

Notes

5. License, sublicense, royalty and franchise agreements involving the Company.	<p>See VI.1 – Specifically the following:</p> <p>LQMT – LLPG, Inc. License Agreement – 2003 (6.10)</p> <p>LQMT– LLPG License Agreement – First Amended (6.4)</p> <p>LLPG Letter – Final Signed (6.21)</p> <p>LQMT – GM License Agreement (6.5)</p> <p>GM Letter – Final Signed (6.23)</p> <p>LQMT – LSI License Agreement (6.6)</p> <p><u>LQMT – The Swatch Group License Agreement (made available at LQMT’s office in RSM, California)</u></p>
6. All material commitments, contracts and/or agreements, or those currently under consideration or negotiation (and the status of negotiation) relating to the Company.	<p>See VI.1 – Specifically the following:</p> <p>LQMT – LLPG, Inc. License Agreement – 2003 (6.10)</p> <p>LQMT – LLPG License Agreement – First Amended (6.4)</p> <p>LLPG Letter – Final Signed (6.21)</p> <p>LQMT – GM License Agreement (6.5)</p> <p>GM Letter – Final Signed (6.23)</p> <p>LQMT – LSI License Agreement (6.6)</p> <p>LQMT – The Swatch Group License Agreement (made available at LQMT’s office in RSM, California)</p> <p>LMCSI Joint Venture Agreement – 2010.05.04 (6.12)</p> <p><u>LQMT – WC Heraeus LOI 05.11.10 (6.11)</u></p>
7. Hold-harmless, indemnification or similar agreements of the Company (or provisions within agreements).	<p><u>See VI</u></p>
8. Any agreement out of the ordinary course of business to which the Company is a party or by which it or its properties are bound as it relates to the conduct of the Company’s business.	<p><u>None</u></p>
9. A list of all agreements affected in any manner by a change in control of the Company or which require consent or notice of a third party to assignment (please provide copies of such agreements to the extent not covered by a request above).	<p><u>LMC Operating Agreement – 2007 (1.8)</u></p>
10. Summary of pending claims for indemnification under any contract.	<p><u>None</u></p>
11. All related party agreements, including all documents pertaining to any receivables from or payables to employees or beneficial owners of more than 5% of the Company’s stock.	<p>Draft 10-K (8.1)</p> <p><u>2009 10-K Updated Draft (8.10)</u></p>

Notes

12. Any waiver or agreement of the Company canceling claims or rights of substantial value other than in the ordinary course of business, including any document relating to material write-downs or write-offs of notes or accounts receivable other than in the ordinary course of business.

Draft 10-K (8.1)

2009 10-K Updated Draft (8.10)

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**XI. IP - IP RIGHTS, PATENTS, TRADEMARKS AND COPYRIGHTS**

Note: for purposes of these requests, “intellectual property” includes, without limitation, patents, trade secrets, know-how, trademarks (including tradenames), and copyrights that are necessary for the conduct of the Company’s business.

**A.** Complete list, description and key terms, including minimum payment obligations and duration, of all licenses, franchises, royalty agreements, marketing agreements, nondisclosure agreements, use or non-use agreements, collaboration or joint development agreements, distributorships, sales, management and other agreements, covenants not to sue, authorizations, consents or permits relating to the Company’s intellectual property and/or technology that are necessary for the conduct of the Company’s business, including without limitation (i) licenses and covenants granted to third parties by the Company, (ii) licenses and covenants granted by third parties to the Company and (iii) technical assistance or technology transfer agreements. Copies of all of the above agreements and (a) royalty-bearing agreements and (b) agreements in which intellectual property and/or technology is being licensed or assigned to or by the Company.

Schedule XI.A (11.110)

See III and VI

LQMT – LLPG, Inc. License Agreement – 2003 (6.10)

LQMT – LLPG License Agreement – First Amended (6.4)

LLPG Letter – Final Signed (6.21)

LQMT – GM License Agreement (6.5)

GM Letter – Final Signed (6.23)

LQMT – LSI License Agreement (6.6)

LQMT – The Swatch Group License Agreement (made available at LQMT’s office in RSM, California)

LMC – Patent and Trademark Security (BMW). (3.14); see also LMC – BMW UCC Terminations – 2010.06 (3.24)

LMC – Patent and Trademark Security (C3) (3.15)

Olcott Report – Stating July 1, 2010 (11.107)

LQMT – Patent Information Annuity Status – 2010.06.20 (11.108)

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**B.** Complete list and copies of all agreements, options or other commitments giving anyone rights to acquire any right, title or interest in any of the Company’s intellectual property or technology.

Schedule XI.B (11.71)

See VI

USPTO – Commonwealth and Middlebury Release Filings – 2010.06 (11.109)

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**C.** Complete list and copies of all assignments relating to intellectual property to which the Company is party, whether assignment to or from the Company.

See Employee Obligation Agreements, Consulting Agreements and Employment Agreements

Employee Obligation Agreement Form (7.2)

Examples of Assignments (11.72)

Schedule XI.C (11.98)

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**D.** Copies of all agreements under which the Company acquired, divested or licensed in any intellectual property.

See VI

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Notes

E. Complete list of any other material agreements or documents relating to intellectual property rights of the Company.

See III and VI

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F. Patents:

1. Complete list and copies of all the Company's issued patents and pending patent applications which are necessary for the conduct of the Company's business (whether filed by the Company or obtained from a third party), prosecution histories, and the following information for each:

LQMT – Patent Information w Intl – 2010.07.14 (11.149)

LQMT – Caltech License Patent Information w Intl – 2010.07.14 (11.150)

(above patent lists are final; the versions below are superseded by the above)

LQMT – Patent Information – 2010.05.04 (11.1)

LQMT – Patent Information w Intl – 2010.06.14 (11.103)

LQMT – Patent Information – Assigned Patents – 2010.05.25 (11.104)

LQMT – Patent Information – Licensed – 2010.05.25 (11.105)

LQMT – Patent Information – Licensed #2 – 2010.05.25 (11.106)

LQMT – Patent Information w Intl – 2010.06.30 (11.111)

LQMT – Caltech License Patent Information w Intl – 2010.07.10 (11.148)

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a. patent or application numbers by country;

See XI.F.1

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b. status of pending applications and provide copy of the Company's file history;

LQMT Pending Matters (11.70)

Files made available to Pillsbury at KPPB and CPH

c. name, and employment status with the Company, of each inventor;

See XI.K.2

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d. whether the patent or patent application has been abandoned; and

Schedule IX.F.1.d (11.73)

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e. whether the Company has granted any license(s) to the patent or patent application (and, if so, provide copy of each license).

See VI

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2. Identify all opposition, reexamination, interference, reissue, confirmation of scope, nullity, inter parts and post grant proceedings. Provide information and documents.

See XI.F.1.b

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3. Copies of any communications (provide details if not written), notices, correspondence, or complaints, including without limitation filings with any court or administrative or government agency, received by the Company which assert or threaten that the Company infringes any third party's patent rights.

None

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Notes

**G. Trademarks:**

1. Complete list of all of the Company’s trademarks, trade names and service marks that are necessary for the conduct of the Company’s business which are registered, unregistered or applied for, and the following information for each:

Trademark Matrix July 10 (11.112)

a. registration or application numbers by country;

See XI.G.1

b. class(es) in which the mark is or will be registered and whether the trademark is on the primary or secondary register;

See XI.G.1

c. status of pending applications;

For India

Liquidmetal Technologies Trademark Application Nos (11.76)

Liquidmetal Coatings Trademark Application Nos (11.77)

d. date of issue for any registrations;

See XI.G.1

e. whether the trademark has been abandoned; and

None

f. whether the Company has granted any license(s) to the trademark (and, if so, provide copy of each license).

See III and VI

LQMT – LLPG License Agreement – First Amended (6.4)

LQMT – GM License Agreement (6.5)

LQMT – LSI License Agreement (6.6)

2. Copies of any communications (provide details if not written), notices, correspondence, or complaints, including without limitation any filings with any court or administrative or government agency, received by the Company which assert or threaten that the Company infringes any third party’s trademark rights.

None

**H. Domain Names:**

1. List of all domain names used by Company during the conduct of the Company’s business, including the registration status of each, with all contact and DNS information for each. Identify any domain names which have been reserved or registered but are not in use.

Liquidmetal Domain Status 19 March 2010 (11.69)

2. Evidence of ownership or license agreements for all domain names owned or used by the Company in the conduct of the Company’s business.

None

**I. Copyrights:**

1. Complete list of all of the Company’s registered copyrights and any other significant copyrighted works (even if not registered) that are necessary for the conduct of the Company’s business including information related to any proprietary software code developed by the Company and utilized in connection with the operation of the Company’s business, and the following information for each:

None

a. registration number, if registered;

None

b. date of issue, if registered;

None

	<u>Notes</u>
<p>c. author;</p>	<p>None</p> <hr/>
<p>d. whether the Company has granted any license(s) to the copyright (and, if so, provide copy of each license).</p>	<p>None</p> <hr/>
<p>2. Copies of any communications (provide details if not written), notices, correspondence, or complaints, including without limitation filings with any court or administrative or government agency, received by the Company which assert or threaten that the Company infringes any third party's copyright rights.</p>	<p>None</p> <hr/>
<b>J. Trade Secrets:</b>	
<p>1. Copies of any communications (provide details if not written), notices, correspondence, or complaints, including without limitation any filings with any court or administrative or government agency, received by the Company which assert or threaten that the Company has misappropriated and/or infringes any third party's trade secrets.</p>	<p>None</p> <hr/>
<b>K. IP Miscellaneous:</b>	
<p>1. Description of the development of the Company IP including the first conception date(s) of the idea behind the Company IP and the current status of the development of the Company IP If Company has or has had multiple product lines/business units, please answer the remaining question separately for each product line/business unit.</p>	<p>Draft 10-K (8.1)</p> <p>2009 10-K Updated Draft (8.10)</p>
<p>2. Describe the individuals and entities who contributed and contribute to the development of the Company IP: (i) employees, (ii) non-employee directors, (iii) board of advisor members, (iv) individual consultants, (v) corporate consultants, and (vi) Joint development partners. Did all employee contributors execute the Company's standard form Invention Assignment Agreement? Did each contributor sign an agreement assuring confidentiality and non-disclosure of Company IP and assigning all of the contributor's intellectual property rights in the development work performed by the contributor to Company?</p>	<p>Schedule XI.K.2 (11.74)</p>
<p>3. Were any employee contributors employed by a competitor of the Company prior to or following their employment with the Company?</p>	<p>None</p>
<p>4. Description of any outstanding suits or claims for infringement of any patents, trademarks, copyrights, domain names or trade secrets owned or used by the Company that are necessary for the conduct of the Company's business (whether by or against the Company).</p>	<p>None</p> <hr/>
<p>5. Copies of any indemnities or standard form of indemnity provided by the Company to third parties regarding intellectual property rights of the Company.</p>	<p>None</p> <hr/>
<p>6. Detail of research and development funding by third parties or affiliates. Other than the contributors identified above, did any other individuals or entities (including government entities) assist Company in the development or the funding of the Company IP? Please provide details.</p>	<p>See VI – LQMT – Caltech License Agreement (6.3)</p> <hr/>
<p>7. Lists of all proprietary and third-party patents, processes and other third-party intellectual property employed in the Company's products and services.</p>	<p>See VI – LQMT – Caltech License Agreement (6.3)</p> <hr/>

Notes

8. At any time during their contribution to the development of the Company IP, were any of the individual contributors students, professors or laboratory assistants in a university, college or any other educational or research entity? Please provide details.

Schedule XI.K.8 (11.75)

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**XII. INSURANCE**

A. Summary documentation relating to all insurance arrangements (including business interruption, earthquake, fidelity insurance, directors and officers insurance, property damage, third party liability, environmental hazard and key employee insurance).

Navigators Insurance Company (12.1)

Summary of Insurance 09-10 (12.2)

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**XIII. ENVIRONMENTAL MATTERS**

A. Any information with regard to claims or violations of, or compliance with environmental laws and regulations relating to the Company.

None

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B. All environmental audit or inspection reports relating to the Company or any of its properties.

None

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C. Identify any history of spillage or leakage of any hazardous substance.

None

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D. If applicable, identify the location of the underground tanks and lines located on property owned or leased, including those no longer used, and set forth any history of spillage or leakage.

None

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E. All notices and demands by environmental authorities.

None

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**XIV. MISCELLANEOUS**

A. Any other documents or information which, in the judgment of officers of the Company, are significant with respect to the Company or its financial condition of the Company or which should be considered and reviewed in making disclosure regarding the Company and its financial condition in connection with the Transaction.

None

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**ANNEX 15**

**List of Excluded LMC Patents and Trademarks**

U.S. Patent No. 5,030,519 – WC Containing Coating, Issued 7/9/91

U.S. Patent No. 5,695,825 – Ti-Containing Hard-Facing Coating, Issued 12/9/97

U.S. Patent No. 5,942,289 – Apparatus for Hard-Facing Coating, Issued 8/24/99

U.S. Patent No. 6,376,091 – Zirconia Containing Coating, Issued 4/23/02

U.S. Patent No. 4,725,512 – Materials Transformable (Armacore), Issued 2/16/88

Armacor Trademark

Liquidmetal Coatings Trademark

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# LIQUIDMETAL TECHNOLOGIES, INC.

## SUBSCRIPTION AGREEMENT

Gentlemen:

1. Subscription.

(a) Subject to the conditions set forth in this Subscription Agreement (this "Agreement"), the undersigned, intending to be legally bound, hereby irrevocably subscribes to purchase from Liquidmetal Technologies, Inc., a Delaware corporation (the "Company"), an aggregate of 7,870,307 shares of the common stock, par value \$0.001 of the Company ("Common Stock"), at a subscription price of \$0.26 per share (the Common Stock purchased pursuant hereto is hereinafter sometimes referred to as the "Securities" herein). This subscription is submitted to you in accordance with and subject to the terms and conditions described in this Agreement.

(b) The purchase price for the Securities shall be made payable to the Company and should be delivered, together with two executed and properly completed copies of this Agreement, to the Company.

(c) The undersigned may not withdraw this subscription or any amount paid pursuant thereto. The undersigned understands that his or her purchase of the Securities is contingent upon the acceptance in writing of this Agreement by the Company. The Company reserves the right, in its sole and absolute discretion, to withdraw, cancel, modify, or reject any subscription, in whole or in part, for any reason.

2. Representations, Warranties and Covenants of the Subscriber. The undersigned hereby represents and warrants to, and agrees with, the Company as follows:

(a) The undersigned is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act"). Specifically: **[PLEASE RESPOND BELOW AS APPROPRIATE]**

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If the subscriber is an INDIVIDUAL, please answer the following questions:

- (1) Did your individual annual income during each of the two most recent years exceed \$200,000 and do you expect your annual income during the current year to exceed \$200,000?

Yes  No

- (2) If you are married, did your joint annual income with your spouse during each of the two most recent years exceed \$300,000 and do you expect your joint annual income with your spouse during the current year to exceed \$300,000?

Yes  No

- (3) Does your individual or joint (together with your spouse) net worth (including automobiles, but excluding your primary residence) exceed \$1,000,000?

Yes  No

**IF THE ANSWERS TO ALL OF THE IMMEDIATELY PRECEDING QUESTIONS ARE “NO,” THE SUBSCRIBER DOES NOT MEET THE REQUISITE FINANCIAL SOPHISTICATED STANDARDS AND WILL NOT BE ACCEPTED AS A PURCHASER OF THE NOTE.**

If the subscriber is a CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, or TRUST please answer the following questions:

- (4) Was the corporation, limited liability company, partnership or trust formed for the specific purpose of investing in the Company?

Yes  No

- (5) Does the corporation, limited liability company, partnership or trust have total assets in excess of \$5,000,000?

Yes  No

If the answer to question (4) is “Yes” or the answer to question (5) is “No,” please answer the following questions:

- (6) Please list the names of each shareholder in the corporation, each member in the limited liability company, each partner in the partnership, and in the case of a revocable trust, each grantor of the trust:

(7) Does each person listed in response to question (6) either (i) have an individual annual income in excess of \$200,000 in each of the two most recent years and expect to have an annual income in excess of \$200,000 during the current year, (ii) if married, have a joint annual income with his/her spouse in excess of \$300,000 in each of the two most recent years and expect to have an annual income in excess of \$300,000 during the current year, or (iii) have an individual or joint (together with his/her spouse) net worth (including automobiles, but excluding the primary residence) in excess of \$1,000,000?

Yes  No

**IF THE ANSWER TO QUESTION 7 IS “NO,” THE SUBSCRIBER DOES NOT SATISFY THE INVESTOR SUITABILITY REQUIREMENTS FOR THIS OFFERING AND WILL NOT BE ACCEPTED AS A PURCHASER OF THE NOTE. IN THE CASE OF A TRUST THAT IS NOT A REVOCABLE TRUST, IF THE ANSWER TO QUESTION 4 IS “YES” OR THE ANSWER TO QUESTION 5 IS “NO”, THE SUBSCRIBER DOES NOT SATISFY THE INVESTOR SUITABILITY REQUIREMENTS FOR THIS OFFERING AND WILL NOT BE ACCEPTED AS A PURCHASER OF THE NOTE.**

(b) The undersigned has a fundamental understanding of the Company’s business.

(c) The undersigned has had access to and has received all materials that have been requested by the undersigned and has had a reasonable opportunity to ask questions of the Company and its representatives. The Company has answered all inquiries that the undersigned or the undersigned’s representatives have asked the Company. The undersigned has taken all the steps necessary to evaluate the merits and risks of an investment in the Securities.

(d) The undersigned has such knowledge and experience in finance, securities, investments and other business matters so as to be able to protect the interests of the undersigned in connection with this transaction, and the undersigned’s investment in the Company is not material when compared to the undersigned’s total financial capacity.

(e) The undersigned understands that there are significant risks incident to an investment in the Company as proposed herein, and the undersigned can afford to bear such risks, including, without limitation, the risk of losing the entire investment.

(f) The undersigned understands that the Securities have not been registered under the Securities Act, that the Securities will be issued on the basis of the exemption provided by Section 4(2) of the Securities Act and Regulation D promulgated thereunder and under exemptions under certain state securities laws, that this transaction has not been reviewed by, passed on or submitted to any federal or state agency or self-regulatory organization where an exemption is being relied upon, and that the Company's reliance thereon is based in part upon the representations made by the undersigned in this Agreement.

(g) The undersigned acknowledges that the undersigned is familiar with the limitations imposed by the Securities Act and the rules and regulations thereunder on the transfer of the Securities. In particular, the undersigned agrees that the Company shall not be required to give any effect to a sale, assignment or transfer of the Securities, unless (i) the sale, assignment or transfer of the Securities is registered under the Securities Act, it being understood that the Securities are not currently registered for sale and that the Company has no obligation or intention to so register the Securities, or (ii) such Securities are sold, assigned or transferred in accordance with all the requirements and limitations of Rule 144 under the Securities Act, it being understood that Rule 144 is not available at the present time for the sale of the Securities, or (iii) such sale, assignment or transfer is otherwise exempt from registration under the Securities Act. The undersigned further understands that an opinion of counsel and other documents may be required to transfer the Securities.

(h) If the undersigned is an individual, the undersigned is a bona-fide resident of the state set forth in the address provided on the undersigned's signature page to this Agreement.

(i) If the undersigned is a partnership, trust, corporation or other entity: (A) it has made other investments or engaged in other substantial business activities prior to receiving an opportunity to purchase the Securities; (B) it was not organized for the purpose of acquiring the Securities; (C) the person executing on behalf of the partnership, trust, corporation or other entity has the full power and authority to execute and comply with the terms of this Agreement on behalf of such entity and to make the representations and warranties made herein on its behalf; (D) its principal place of business and principal office are located in the state set forth in its address below; and (E) the investment in the Securities has been affirmatively authorized, if required, by the governing board of such entity and is not prohibited by the governing documents of the entity.

(j) The undersigned will acquire the Securities for the undersigned's own account for investment and not with a view to the sale or distribution thereof or the granting of any participation therein, and has no present intention of distributing or selling to others any of such interest or granting any participation therein.

(k) The undersigned acknowledges that the representations, warranties and agreements made by the undersigned herein shall survive the execution and delivery of this Agreement and the purchase of the Securities. The information stated herein is true and complete as of the date hereof and will be true and complete as of the date on which the Company shall sell the Securities to the undersigned. If, prior to the final consummation of the offer and sale of the Securities, there should be any change in such information or any of such information becomes incorrect or incomplete, the undersigned agrees to notify and supply promptly corrective information to the Company.



3. Representations and Warranties of the Company. The Company hereby represents and warrants to the undersigned that:

(a) Organization and Qualification. The Company and its “Subsidiaries” (which for purposes of this Agreement means any entity in which the Company, directly or indirectly, owns capital stock or holds an equity or similar interest) are corporations or other legal entities duly organized and validly existing in good standing under the laws of the jurisdictions in which they are organized, as set forth in the disclosure schedule attached hereto (the “Disclosure Schedule”), and have the requisite power and authorization to own their properties and to carry on their business as now being conducted. The Company and each Subsidiary is duly qualified as a foreign corporation or other legal entity to do business and is in good standing in every jurisdiction in which its ownership of property or the nature of the business conducted by it makes such qualification necessary, as set forth in the Disclosure Schedule, except to the extent that the failure to be so qualified or be in good standing would not have a Material Adverse Effect. As used in this Agreement, “Material Adverse Effect” means any material adverse effect on the business, properties, assets, operations, results of operations, or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole. The Company has no Subsidiaries except as set forth in the Disclosure Schedule or in the SEC Documents (as defined below).

(b) Authorization; Enforcement; Validity. The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement and to issue the Securities in accordance with the terms hereof and thereof. The execution and delivery of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby and thereby, including, without limitation, the issuance of the Securities, have been duly authorized by the Company’s Board of Directors and no further consent or authorization is required by the Company, its Board of Directors or its stockholders. This Agreement has been duly executed and delivered by the Company, and constitutes the legal, valid and binding obligations of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of applicable creditors’ rights and remedies, and except that any rights to indemnity or contribution under this Agreement may be limited by federal and state securities laws and public policy considerations.

(c) Issuance of Securities. The Securities are duly authorized and upon issuance thereof in accordance with this Agreement will be validly issued, fully paid and nonassessable and free from all taxes, liens and charges with respect to the issue thereof, with the holder being entitled to all rights accorded to a holder of Common Stock. Assuming the accuracy of each of the representations and warranties of the undersigned contained in Section 2 of this Agreement, the issuance by the Company of the Securities is exempt from the registration requirements of Section 5 of the Securities Act.

(d) No Conflicts. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby (including, without limitation, the issuance of the Securities) will not (i) result in a violation of the certificate of incorporation, any certificate of designations, preferences and rights of any outstanding series of preferred stock or the bylaws of the Company or any of its Subsidiaries, (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any material agreement, indenture or instrument to which the Company or any of its Subsidiaries is a party, except which are the subject of written waivers or consents which have been obtained or effected on or prior to the date hereof or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or any of its Subsidiaries or by which any property or asset of the Company or any of its Subsidiaries is bound or affected, except in the case of clauses (ii) and (iii), for such breaches or defaults as could not reasonably be expected to have a Material Adverse Effect.

(e) Consents. Except as disclosed in the Disclosure Schedule or in the SEC Documents, the Company is not required to obtain any consent, authorization or order of, or make any filing or registration with, any court, governmental agency or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its obligations under or contemplated by the Transaction Documents, in each case in accordance with the terms hereof or thereof. All consents, authorizations, orders, filings and registrations which the Company is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof (other than filings and reports relating to the offer and sale of the Securities required under Regulation D or applicable securities or “Blue Sky” laws), and the Company and its Subsidiaries are unaware of any facts or circumstances which might prevent the Company from obtaining or effecting any of the registrations, applications or filings pursuant to the preceding sentence.

(f) Acknowledgment Regarding the Subscriber’s Purchase of Securities. The Company acknowledges and agrees that the undersigned is acting solely in the capacity of arm’s length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby and that, except as set forth in the Disclosure Schedule or in the SEC Documents, the undersigned is not (i) an officer or director of the Company, (ii) an “affiliate” of the Company (as defined in Rule 144) or (iii) to the knowledge of the Company, a “beneficial owner” of more than 10% of the Common Stock (as defined for purposes of Rule 13d-3 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The Company further acknowledges that the undersigned is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated hereby and thereby, and any advice given by the undersigned or any of its representatives or agents in connection with the Transaction Documents and the Transactions contemplated hereby and thereby is merely incidental to the undersigned’s purchase of the Securities.

(g) No General Solicitation; Placement Agent's Fees. Neither the Company, nor any of its affiliates, nor any Person acting on its or their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Securities. The Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, or brokers' commissions (other than for persons engaged by the undersigned or its investment advisor) relating to or arising out of the transactions contemplated hereby.

(h) No Integrated Offering. None of the Company, its Subsidiaries, any of their affiliates, or any Person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of any of the Securities under the Securities Act or cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of the Securities Act or any applicable stockholder approval provisions, including, without limitation, under the rules and regulations of any exchange or automated quotation system on which any of the securities of the Company are listed or designated.

(i) Rights Agreement. The Company has not adopted a stockholder rights plan or similar arrangement relating to accumulations of beneficial ownership of Common Stock or a change in control of the Company.

(j) SEC Documents. Except for its Form 10-K for the year ended December 31, 2009 (the "2009 10-K") and its Form 10-Q for the quarter ended March 31, 2009 (the "3/31/10 10-Q"), the Company has filed all reports, schedules, forms, statements and other documents required to be filed by it with the United States Securities and Exchange Commission (the "SEC") pursuant to the reporting requirements of the Exchange Act. True, correct and complete drafts of the 2009 10-K and the 3/31/10 10-Q, as of the date hereof, have been provided to the undersigned (All of the foregoing filed prior to the date hereof (whether or not required to be filed), the draft 2009 10-K and 3/31/10 10-Q, and all exhibits included therein and financial statements and schedules thereto and documents incorporated by reference therein being hereinafter referred to as the "SEC Documents"). As of their respective dates, the SEC Documents complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and, to the Company's knowledge, none of the SEC Documents, at the time they were filed with the SEC or are intended to be filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(k) Financial Statements. As of their respective dates, the financial statements of the Company included in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments).

(l) Conduct of Business. Neither the Company nor any of its Subsidiaries is in violation of any term of or in default under its Certificate of Incorporation or Bylaws or its organizational charter or bylaws, respectively. Except as disclosed in the Disclosure Schedule or in the SEC Documents, neither the Company nor any of its Subsidiaries is in violation of any judgment, decree or order or any statute, ordinance, rule or regulation applicable to the Company or its Subsidiaries, and neither the Company nor any of its Subsidiaries will conduct its business in violation of any of the foregoing, except for possible violations which would not, individually or in the aggregate, have a Material Adverse Effect.

(m) Regulatory Permits. The Company and its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and neither the Company nor any such Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit.

(n) Equity Capitalization. As of the date hereof, the number of shares and type of all authorized, issued, and outstanding capital stock of the Company, and all shares of Common Stock reserved for issuance under the Company's employee and director benefit, incentive, or option plans, is set forth in the Disclosure Schedule. All of such outstanding shares have been, or upon issuance will be, validly issued and are fully paid and nonassessable. All of such outstanding shares of capital stock are duly authorized, validly issued, fully paid and nonassessable. No shares of capital stock of the Company are subject to preemptive rights or any other similar rights of the shareholders of the Company or any liens or encumbrances imposed through the actions or failure to act of the Company. Except as disclosed in the Disclosure Schedule and other than pursuant to this Agreement, (i) there are no outstanding options, warrants, scrip, rights to subscribe for, puts, calls, or rights of first refusal, and (ii) there are no agreements, understandings, claims, antidilution protection or other commitments or rights of any character whatsoever that could require the Company to issue additional shares of capital stock of the Company or adjust the purchase or exercise price of any such instrument. Except as disclosed in the Disclosure Schedule, there are no agreements or arrangements (other than the Registration Rights Agreement, dated as of May 1, 2009, between the Company and the buyers signatory thereto) under which the Company is obligated to register the sale of any of its securities under the Securities Act.

(o) Indebtedness and Other Contracts. Except as disclosed in the Disclosure Schedule or in the SEC Documents, neither the Company nor any of its Subsidiaries (i) has any outstanding Indebtedness, or (ii) is in violation of any term of or in default under any contract, agreement or instrument relating to any Indebtedness. For purposes of this Agreement: (x) "Indebtedness" of any Person means, without duplication (A) all indebtedness for borrowed money, (B) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (other than trade payables entered into in the ordinary course of business), (C) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (D) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (E) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (F) all monetary obligations under any leasing or similar arrangement which, in connection with generally accepted accounting principles, consistently applied for the periods covered thereby, is classified as a capital lease, (G) all indebtedness referred to in clauses (A) through (F) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (H) all Contingent Obligations (as defined below) in respect of indebtedness or obligations of others of the kinds referred to in clauses (A) through (G) above; (y) "Contingent Obligation" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; and (z) "Person" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.

(p) Absence of Litigation. Except as disclosed in the Disclosure Schedule or in the SEC Documents, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Company, threatened against or affecting the Company, the Common Stock or any of the Company's Subsidiaries that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(q) Insurance. The Company and each of its Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Company reasonably believes to be prudent and customary in the businesses in which the Company and its Subsidiaries are engaged. Neither the Company nor any such Subsidiary has been refused any insurance coverage sought or applied for and neither the Company nor any such Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect.

(r) Employee Relations. Except as disclosed in the Disclosure Schedule or in the SEC Documents, neither the Company nor any of its Subsidiaries is a party to any collective bargaining agreement or employs any member of a union. The Company and its Subsidiaries believe that their relations with their employees are good. No executive officer of the Company (as defined in Rule 501(f) of the Securities Act) has notified the Company that such officer intends to leave the Company or otherwise terminate such officer's employment with the Company. No executive officer of the Company, to the knowledge of the Company, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant. The Company and its Subsidiaries are in compliance with all federal, state, local and foreign laws and regulations respecting employment and employment practices, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(s) Title. The Company and its Subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them which is material to the business of the Company and its Subsidiaries, in each case free and clear of all liens, encumbrances and defects except such as are described in the Disclosure Schedule or in the SEC Documents or such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company and any of its Subsidiaries. Any real property and facilities held under lease by the Company and any of its Subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company and its Subsidiaries.

(t) Intellectual Property Rights. To the knowledge of the Company and except as set forth in the Disclosure Schedule or in the SEC Documents, the Company and its Subsidiaries own or possess adequate rights or licenses to use all trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, inventions, licenses, approvals, governmental authorizations, trade secrets and other intellectual property rights ("Intellectual Property Rights") necessary to conduct their respective businesses as now conducted. The Company does not have any knowledge of any infringement by the Company or its Subsidiaries of Intellectual Property Rights of others. Except as set forth in the Disclosure Schedule or in the SEC Documents, there is no claim, action or proceeding being made or brought, or to the knowledge of the Company, being threatened, against the Company or its Subsidiaries regarding its Intellectual Property Rights which could have a Material Adverse Effect.

(u) Environmental Laws. The Company and its Subsidiaries (i) are in material compliance with any and all Environmental Laws (as hereinafter defined), (ii) have received all material permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) are in material compliance with all terms and conditions of any such permit, license or approval where, in each of the foregoing clauses (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. The term "Environmental Laws" means all federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder.

(v) Tax Status. The Company and each of its Subsidiaries (i) has made or filed all federal and state income and all other tax returns, reports and declarations required by any jurisdiction in which such filings are required, (ii) has paid all taxes and other governmental assessments and charges that are owed by it, including all taxes shown or determined to be due on such returns, reports and declarations, except those being contested in good faith and for which adequate reserves have been established on the Company's books, and (iii) has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction.

(w) Disclosure. The Company confirms that it has not provided the undersigned or its agents or counsel with any information that will constitute material, nonpublic information as of the date hereof, other than information and documentation regarding the transactions contemplated by this Agreement, which information shall be included on a Form 8-K to be filed by the Company in connection with this transaction, and information included in draft SEC Documents that have not yet been filed. The Company understands and confirms that the undersigned will rely on the foregoing representations in effecting transactions in securities of the Company. The Company acknowledges and agrees that the undersigned does not make and has not made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 2 of this Agreement.

(x) Manipulation of Price. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in, or that has constituted or which might reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid anyone any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any person any compensation for soliciting another to purchase any other securities of the Company.

(y) Internal Accounting and Disclosure Controls. The Company and each of its Subsidiaries maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset and liability accountability, (iii) access to assets or incurrence of liabilities is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets and liabilities is compared with the existing assets and liabilities at reasonable intervals and appropriate action is taken with respect to any difference. Except as set forth in the Disclosure Schedule or in the SEC Documents, the Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-14 under the Exchange Act) that are effective in ensuring that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC, including, without limitation, controls and procedures designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive officer or officers and its principal financial officer or officers, as appropriate, to allow timely decisions regarding required disclosure. Except as set forth in the Disclosure Schedule or in the SEC Documents, during the twelve months prior to the date hereof neither the Company nor any of its Subsidiaries have received any notice or correspondence from any accountant relating to any potential material weakness in any part of the system of internal accounting controls of the Company or any of its Subsidiaries.

(z) Investment Company Status. The Company is not, and upon consummation of the sale of the Securities will not be, an “investment company,” a company controlled by an “investment company” or an “affiliated person” of, or “promoter” or “principal underwriter” for, an “investment company” as such terms are defined in the Investment Company Act of 1940, as amended.

(aa) U.S. Real Property Holding Corporation. The Company is not, nor has it ever been, a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon the request of the undersigned.

(bb) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries is subject to the Bank Holding Company Act of 1956, as amended (the “BHCA”) and to regulation by the Board of Governors of the Federal Reserve System (the “Federal Reserve”). Neither the Company nor any of its Subsidiaries or affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five (25%) or more of the total equity of a bank or any equity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(cc) Shell Company Status. The Company is not, nor has it at any time previously been, considered a “shell company” within the meaning of Rule 144(i)(1)(i) (or any successor rule) under the Securities Act.

(dd) Survivability of Company’s Representations and Warranties. The Company acknowledges that the representations, warranties and agreements made by the Company herein shall survive the execution and delivery of this Agreement and the Company’s delivery of the Securities. The information stated herein is true and complete as of the date hereof and will be true and complete as of the date on which the undersigned shall purchase the Securities from the Company. If, prior to the final consummation of the offer and sale of the Securities, there should be any change in such information or any of such information becomes incorrect or incomplete, the Company agrees to notify and supply promptly corrective information to the undersigned.



4. Indemnification. The undersigned agrees to indemnify and hold harmless the Company and each officer, director, employee, agent and controlling person of the Company from and against any and all loss, damage or liability due to or arising out of a breach of any representation or warranty in this Agreement.

5. Miscellaneous.

(a) This Agreement shall be binding upon and inure to the benefit of the parties hereto, the successors and assigns of the Company, and the permitted successors and assigns of the undersigned.

(b) This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement.

(c) The validity, construction, enforcement, and interpretation of this Agreement are governed by the laws of the State of California and the United States of America, without regard to principles of conflict of laws.

(d) The undersigned hereby agrees that the venue of any action, proceeding, counterclaim, crossclaim, or other litigation relating to, involving, or resulting from this Agreement shall be the state or federal courts located in Orange County, California.

(e) This Agreement may not be amended except in a writing specifically intended for the purpose and executed by the party against whom enforcement of the amendment is sought.

(f) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

(g) This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which, together, shall constitute the same instrument.

[SIGNATURES FOLLOW]



**DISCLOSURE SCHEDULE**

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Schedule 3 (a)

Subsidiaries

Name of Subsidiary	Jurisdiction of Incorporation or Organization	Jurisdictions in which Qualified to Do Business as a Foreign Corporation or Entity
Liquidmetal Golf	California corporation	None
Liquidmetal Korea Co., Ltd.	South Korea organized entity	South Korea
Amorphous Technologies International (Asia) PTE Ltd.	Singapore organized entity(inactive, dissolution in process)	Singapore
Liquidmetal Coatings, LLC	Delaware Limited Liability Company	None
Crucible Intellectual Property, LLC	Delaware Limited Liability Company	None

**Schedule 3(e)**

**None.**

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**Schedule 3(f)**

**None other than that disclosed in SEC Documents.**

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**Schedule 3(l)**

**None other than that disclosed in SEC Documents.**

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**Schedule 3(m)**

**None.**

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Schedule 3(n)

	<b>Outstanding as of August 10, 2010**</b>	<b>As converted into common stock**</b>
<b>Shares Outstanding</b>		
Common shares	55,950,201	55,950,201
Series A-1 Preferred Shares outstanding*	680,000	34,000,000
Series A-1 Accrued Dividends*	52,715	2,635,750
Series A-2 Preferred Shares outstanding*	2,444,663	55,560,523
Series A-2 Accrued Dividends*	219,298	4,984,045
<b>Total Outstanding</b>	<b>59,346,877</b>	<b>153,130,519</b>
<b>Options and Warrants Outstanding</b>		
1996 stock option plan	53,734	53,734
2002 Equity incentive plan	5,648,993	5,648,993
2002 non employee director stock option plan	90,000	90,000
Warrants	52,732,484	52,732,484
Options not issued under plan	1,591,399	1,591,399
<b>Total Options and Warrants Outstanding</b>	<b>60,116,610</b>	<b>60,116,610</b>
<b>Total Shares</b>	<b>119,463,487</b>	<b>213,247,129</b>

\* In addition to the above, the Company intends to make a conversion offer to the holders of preferred shares to convert their shares plus accrued but unpaid dividends, plus any dividends that would have accrued through June 1, 2011, into common shares at their respective exercise prices of \$.10 for the Series A-1 shares and \$.22 for the Series A-2 shares.

\*\* This table does not take into account (i) any shares of common stock issued pursuant to preferred stock conversions or warrant exercises on August 10, 2010, or (ii) shares issuable in payment of \$250,000 in fees owing to Abdi Mahamedi, as the number of shares issuable will be based on the closing price of the Company's common stock on August 12, 2010, or (iii) up to approximately 214,000 shares that the company is authorized to issue to directors in lieu of director fees.

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**Schedule 3(o)**

**None other than that disclosed in SEC Documents.**

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**Schedule 3(p)**

**None other than that disclosed in SEC Documents.**

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**Schedule 3(r)**

**None other than that disclosed in SEC Documents.**

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**Schedule 3(s)**

**None other than that disclosed in SEC Documents.**

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**Schedule 3(t)**

**None other than that disclosed in SEC Documents.**

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**Schedule 3(u)**

**None.**

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**Schedule 3(y).**

**None other than that disclosed in SEC Documents.**

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CONSENT AGREEMENT

**THIS CONSENT AGREEMENT** (this “Agreement”) is made and entered into as of November 2, 2010<sup>1</sup>, by and between **LIQUIDMETAL TECHNOLOGIES, INC.** a Delaware corporation (“Company”), having its principal office at 30452 Esperanza, Rancho Santa Margarita, CA 92688 , and the undersigned holders of preferred stock of the Company (“Holders”).

**RECITALS:**

- A. On May 1, 2009, the Company filed with the Delaware Secretary of State a *Certificate of Designations, Preferences and Rights of Series A Preferred Stock* (the “Designation”) designating and setting forth the preferences and rights of the Company’s Series A-1 Preferred Stock (“Series A-1 Preferred Stock”) and Series A-2 Preferred Stock (“Series A-2 Preferred Stock”, and together with the Series A-1 Preferred Stock, the “Series A Preferred Stock”).
- B. Holders are collectively the owners of (i) more than two-thirds of the total number of shares of Series A-1 Preferred Stock outstanding as of the date of this Agreement on both an actual and as-converted basis, (ii) more than two-thirds of the total number of shares of Series A-2 Preferred Stock outstanding as of the date of this Agreement on both an actual and as-converted basis, and (iii) more than two-thirds of the total combined number of shares of Series A-1 Preferred Stock and Series A-2 Preferred Stock outstanding as of the date of this Agreement on both an actual and as-converted basis..
- C. Holders desire to hereby consent to an amendment and restatement of the Designation upon the terms and conditions set forth herein (the “Amended Designation”).
- D. This Agreement constitutes the consent to and approval of the Amended Designation by the holders of the Series A Preferred Stock as required under Sections 6 and 7 of the Designation, Article VIII of the Company’s Certificate of Incorporation, as amended, and Section 242 of the Delaware General Corporation Law.
- E. In connection with each Holder’s original purchase of the Series A Preferred Stock, the Company previously issued to the Holder the common stock purchase warrants indicated next to the Holder’s name Exhibit A hereto (the “Warrants”) upon the terms and conditions set forth in one or more Common Stock Purchase Warrants dated May 1, 2009 (the “Warrant Agreements”).

**NOW, THEREFORE**, in consideration of the premises and covenants contained in this Agreement, the parties hereto, intending to be legally bound, agree as follows:

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<sup>1</sup> The agreement will be dated on the date on which the Company receives the last signature necessary for approval.

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1. **Approval of Amended Designation.** In consideration of the agreement by the Company set forth in Section 2 of this Agreement, each Holder hereby approves and consents to the Amended Designation, which shall be in substantially the form attached hereto as Exhibit B. For purposes of this Agreement, each Holder hereby represents and warrants to the Company that such Holder is the record and beneficial owner of the shares of Series A Preferred Stock set forth next to such Holder's name on Exhibit A hereto and that such Holder has the power and authority to enter into this Agreement.

2. **Amendment of Warrant Agreements.** In consideration of each Holder's consent to, and approval of, the Amended Designation in substantially the form attached hereto as Exhibit A, the Company hereby agrees that each Holder's Warrant Agreements shall, contingent upon and effective as of the date of the filing and acceptance of the Amended Designation by the Delaware Secretary of State (the "Effective Date"), be amended as follows:

a. **Expiration Date.** The Expiration Date (as defined in the Warrant Agreements) is hereby extended to July 15, 2015.

b. **Certain Anti-Dilution Rights.** Section 9(c) of the Warrant Agreements is hereby deleted in its entirety and replaced with the following text: "Section 9(c). [Intentionally left blank]."

Except to the extent modified by the foregoing amendments, the Holder's Warrant Agreements shall continue to remain in full force and effect after the Effective Date in accordance with the terms thereof.

3. **Miscellaneous.**

a. **Confidentiality.** Each Holder acknowledges that, until such time as the Company files a Form 8-K with the Securities and Exchange Commission disclosing this Agreement and the Amended Designation and the terms thereof, the existence of this Agreement and the Amended Designation and the terms thereof are material nonpublic information relating to the Company, and each Holder will accordingly (i) refrain from disclosing to third parties the existence of this Agreement and the Amended Designation and the terms thereof prior to the filing of such Form 8-K and (ii) comply with all applicable securities laws with respect to the possession of material nonpublic information.

b. **Counterparts; Faxed and Scanned Signatures.** This Agreement may be executed in counterparts, each of which shall be deemed an original of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same Agreement. The parties agree that this Agreement may be executed by each party signing one original and providing a facsimile (fax) copy, or scanned copy by .pdf, of the signature page to the other party, provided that each party agrees to make its document with the original signature available to the other party upon request, and further provided that the parties agree that the fax or scanned signature shall be treated as if it were an original signature, and neither party shall contest the validity of this Agreement based on the use of fax or scanned signatures.

c. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof.

d. **Governing Law.** This Agreement shall be governed by the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof and without regard to where the Agreement is executed or to be performed.

e. **Severability.** In the event any provision of this Agreement is found to be unenforceable, void, invalid or unreasonable in scope, such provision shall be modified to the extent necessary to make it enforceable, and as so modified, this Agreement shall remain in full force and effect.

f. ***Successors and Assigns.*** The rights and obligations of the parties under this Agreement shall inure to the benefit of, and shall be binding upon, their respective heirs, executors, administrators, successors, assigns, subsidiaries, affiliates, directors, officers, employees, representatives and agents, as applicable.

[signatures to follow]

**COMPANY SIGNATURE PAGE TO CONSENT AGREEMENT**

**IN WITNESS WHEREOF**, the Company has executed this Agreement as of the day and year first above written.

**LIQUIDMETAL TECHNOLOGIES, INC.**

By: /s/ Thomas Steipp

Name: Thomas Steipp

Title: Chief Executive Officer

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**HOLDER COUNTERPART SIGNATURE PAGE TO CONSENT AGREEMENT**

IN WITNESS WHEREOF, the undersigned Holder has executed this Agreement as of the day and year first above written.

**HOLDER**

Name of Holder: \_\_\_\_\_

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

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

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

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**EXHIBIT A**  
**To**  
**Consent Agreement**

<b>Name of Holder</b>	<b>Series A-1</b>	<b>Series A-2</b>	<b>Number of shares of</b>
	<b>Preferred Stock</b>	<b>Preferred Stock</b>	<b>Common Stock subject to</b>
	<b>Actual</b>	<b>Actual</b>	<b>Warrants</b>
Carlyle Liquid Holdings, LLC	500,000	888,743	23,060,556
Carlyle Liquid, LLC		467,612	5,422,209
Carlyle Holdings, LLC		58,108	673,785
Castlerigg Master Investment Ltd.		25,000	1,834,949
Abdi Mahamedi	10,000	116,215	1,602,672
Ricardo A. Salas	50,000	82,333	2,230,206
Grace Partners, LLC		108,498	1,258,083
Ed Neugeboren		606	7,025
Atlantic Realty		58,108	673,785
Edmond J. Harris	10,000		255,103
Tjoa Thian Song	60,000		1,530,613
John Kang	20,000		510,205
Tony Chung	10,000		255,103
Thomas Steipp	20,000		510,205

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**EXHIBIT B TO CONSENT AGREEMENT**

**FORM OF AMENDED DESIGNATION**

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CERTIFICATIONS

I, Thomas Steipp, certify that:

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

Date: November 4, 2010

/s/ Thomas Steipp  
Thomas Steipp  
President and Chief Executive Officer  
(Principal Executive Officer)

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CERTIFICATIONS

I, Tony Chung, certify that:

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

Date: November 4, 2010

/s/ Tony Chung  
Tony Chung  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

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**WRITTEN STATEMENT OF THE CHIEF EXECUTIVE OFFICER  
PURSUANT TO 18 U.S.C. 1350**

Solely for the purposes of complying with 18 U.S.C. 1350, I, the undersigned Chief Executive Officer of Liquidmetal Technologies, Inc. (the "Company"), hereby certify, based on my knowledge, that the Quarterly Report on Form 10-Q of the Company for the quarter ended September 30, 2010, (the "Report") fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Thomas Steipp

Thomas Steipp, President and Chief Executive Officer

November 4, 2010

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**WRITTEN STATEMENT OF THE CHIEF FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. 1350**

Solely for the purposes of complying with 18 U.S.C. 1350, I, the undersigned Chief Financial Officer of Liquidmetal Technologies, Inc. (the "Company"), hereby certify, based on my knowledge, that the Quarterly Report on Form 10-Q of the Company for the quarter ended September 30, 2010 (the "Report") fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Tony Chung

Tony Chung, Chief Financial Officer

November 4, 2010

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