
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

Form 10-Q

(Mark One)

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

For the Quarterly Period Ended January 31, 2019

Or

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

For the Transition Period From _____ to _____

Commission file number: 001-33417

OCEAN POWER TECHNOLOGIES, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
*(State or Other Jurisdiction of
Incorporation or Organization)*

22-2535818
*(I.R.S. Employer
Identification No.)*

28 ENGELHARD DRIVE, SUITE B, MONROE TOWNSHIP, NJ 08831

(Address of Principal Executive Offices, Including Zip Code)

(609) 730-0400

(Registrant's Telephone Number, Including Area Code)

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 every Interactive Data File required to be submitted 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 such files). Yes No

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

Large accelerated filer

Accelerated filer

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

Smaller reporting company

Emerging growth company

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

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

As of March 5, 2019, the number of outstanding shares of common stock of the registrant was 22,726,006.

OCEAN POWER TECHNOLOGIES, INC.
INDEX TO FORM 10-Q

	Page Number
<u>PART I — FINANCIAL INFORMATION</u>	
<u>Item 1. Financial Statements:</u>	2
<u>Consolidated Balance Sheets as of January 31, 2019 (unaudited) and April 30, 2018</u>	2
<u>Unaudited Consolidated Statements of Operations for the three months and nine months ended January 31, 2019 and 2018</u>	3
<u>Unaudited Consolidated Statements of Comprehensive Loss for the three and nine months ended January 31, 2019 and 2018</u>	4
<u>Unaudited Consolidated Statement of Stockholders' Equity for the nine months ended January 31, 2019</u>	5
<u>Unaudited Consolidated Statements of Cash Flows for the nine months ended January 31, 2019 and 2018</u>	6
<u>Notes to Unaudited Consolidated Financial Statements</u>	7
<u>Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	26
<u>Item 3. Quantitative and Qualitative Disclosures About Market Risk</u>	41
<u>Item 4. Controls and Procedures</u>	42
<u>PART II — OTHER INFORMATION</u>	
<u>Item 1. Legal Proceedings</u>	43
<u>Item 1A. Risk Factors</u>	45
<u>Item 2. Unregistered Sales of Equity Securities and Use of Proceeds</u>	47
<u>Item 3. Defaults Upon Senior Securities</u>	47
<u>Item 4. Mine Safety Disclosures</u>	47
<u>Item 5. Other Information</u>	47
<u>Item 6. Exhibits</u>	48

PowerBuoy® and the Ocean Power Technologies logo are trademarks of Ocean Power Technologies, Inc. All other trademarks appearing in this report are the property of their respective holders.

Special Note Regarding Forward-Looking Statements

We have made statements in this Quarterly Report on Form 10-Q that are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements convey our current expectations or forecasts of future events. Forward-looking statements include statements regarding our future financial position, business strategy, pending, threatened, and current litigation, liquidity, budgets, projected costs, plans and objectives of management for future operations. The words “may,” “continue,” “estimate,” “intend,” “plan,” “will,” “believe,” “project,” “expect,” “anticipate”, and similar expressions may identify forward-looking statements, but the absence of these words does not necessarily mean that a statement is not forward-looking.

The forward-looking statements contained in or incorporated by reference are largely based on our expectations, which reflect estimates and assumptions made by our management. These estimates and assumptions reflect our best judgment based on currently known market conditions and other factors. Although we believe such estimates and assumptions to be reasonable, they are inherently uncertain and involve a number of risks and uncertainties that are beyond our control, including:

- our ability to commercialize our PowerBuoys®, and achieve and sustain profitability;
- our continued development of our proprietary technologies, and expected continued use of cash from operating activities unless or until we achieve positive cash flow from the commercialization of our products and services;
- our ability to obtain additional funding, as and if needed which will be subject to a number of factors, including market conditions, and our operating performance;
- our estimates regarding expenses, future revenues and capital requirements;
- the adequacy of our cash balances and our need for additional financings;
- our ability to develop and manufacture a commercially viable PowerBuoy® product;
- our ability to successfully develop and market new products, such as a hybrid PowerBuoy® or subsea battery solutions;
- that we will be successful in our efforts to commercialize our PowerBuoy® or the timetable upon which commercialization can be achieved, if at all;
- our ability to identify and penetrate markets for our PowerBuoys® and our wave energy technology;
- the reliability of our technology and our PowerBuoys®;
- the power output, survivability and reliability of our PowerBuoys®;
- our ability to implement our commercialization strategy as planned, or at all;
- our relationships with our strategic partners may not be successful and we may not be successful in establishing additional relationships;
- our ability to maintain the listing of our common stock on the NASDAQ Capital Market;
- our ability to raise capital through our current equity facilities;
- the impact of pending and threatened litigation on our business, financial condition and liquidity;
- changes in current legislation, regulations and economic conditions that affect the demand for renewable energy;
- our ability to compete effectively in our target markets;
- our limited operating history and history of operating losses;
- our sales and marketing capabilities and strategy in the United States and internationally; and
- our ability to protect our intellectual property portfolio.

Any or all of our forward-looking statements in this report may turn out to be inaccurate. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs. They may be affected by inaccurate assumptions we might make or unknown risks and uncertainties, including the risks, uncertainties and assumptions described in Item 1A “Risk Factors” of our Annual Report on Form 10-K for the year ended April 30, 2018, and in our subsequent reports under the Exchange Act. In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this report may not occur as contemplated and actual results could differ materially from those anticipated or implied by the forward-looking statements.

Many of these factors are beyond our ability to control or predict. These factors are not intended to represent a complete list of the general or specific factors that may affect us. You should not unduly rely on these forward-looking statements, which speak only as of the date of this filing. Unless required by law, we undertake no obligation to publicly update or revise any forward-looking statements to reflect new information or future events or otherwise.

PART I — FINANCIAL INFORMATION

Item 1. Financial Statements

Ocean Power Technologies, Inc. and Subsidiaries
Consolidated Balance Sheets
(in thousands, except share data)

	January 31, 2019 (Unaudited)	April 30, 2018
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 2,220	\$ 11,499
Marketable securities	-	25
Restricted cash- short-term	353	572
Accounts receivable	66	171
Unbilled receivables	-	71
Contract assets	85	-
Litigation receivable	-	350
Other current assets	1,066	567
Total current assets	<u>3,790</u>	<u>13,255</u>
Property and equipment, net	632	712
Restricted cash- long-term	155	154
Total assets	<u>\$ 4,577</u>	<u>\$ 14,121</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 173	\$ 290
Accrued expenses	2,533	2,261
Litigation payable	-	350
Unearned revenue	-	18
Contract liabilities	256	-
Warrant liabilities	18	201
Current portion of capital lease obligations	1	23
Deferred credits payable current	-	600
Total current liabilities	<u>2,981</u>	<u>3,743</u>
Deferred rent	147	142
Total liabilities	<u>3,128</u>	<u>3,885</u>
Commitments and contingencies		
Ocean Power Technologies, Inc. stockholders' equity:		
Preferred stock, \$0.001 par value; authorized 5,000,000 shares, none issued or outstanding	-	-
Common stock, \$0.001 par value; authorized 100,000,000 shares, issued 20,390,109 and 18,424,939 shares, respectively	20	18
Treasury stock, at cost; 75,782 and 74,012 shares, respectively	(301)	(300)
Additional paid-in capital	209,173	208,216
Accumulated deficit	(207,279)	(197,538)
Accumulated other comprehensive loss	(164)	(160)
Total stockholders' equity	<u>1,449</u>	<u>10,236</u>
Total liabilities and stockholders' equity	<u>\$ 4,577</u>	<u>\$ 14,121</u>

See accompanying notes to unaudited consolidated financial statements.

Ocean Power Technologies, Inc. and Subsidiaries
Unaudited Consolidated Statements of Operations
(in thousands, except per share data)
(Unaudited)

	<u>Three months ended January 31,</u>		<u>Nine months ended January 31,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Revenues	\$ 268	\$ -	\$ 440	\$ 289
Cost of revenues	400	-	1,180	193
Gross profit/(loss)	<u>(132)</u>	<u>-</u>	<u>(740)</u>	<u>96</u>
Operating expenses:				
Engineering and product development costs	1,382	1,318	4,105	3,398
Selling, general and administrative costs	2,008	1,576	5,909	4,964
Total operating expenses	<u>3,390</u>	<u>2,894</u>	<u>10,014</u>	<u>8,362</u>
Operating loss	(3,522)	(2,894)	(10,754)	(8,266)
Gain due to the change in fair value of warrant liabilities	47	14	183	82
Interest income, net	2	42	23	51
Other income	-	4	-	4
Foreign exchange gain/(loss)	12	52	(43)	107
Loss before income taxes	<u>(3,461)</u>	<u>(2,782)</u>	<u>(10,591)</u>	<u>(8,022)</u>
Income tax benefit	850	1,119	850	1,119
Net loss	<u>\$ (2,611)</u>	<u>\$ (1,663)</u>	<u>\$ (9,741)</u>	<u>\$ (6,903)</u>
Basic and diluted net loss per share	<u>\$ (0.14)</u>	<u>\$ (0.09)</u>	<u>\$ (0.52)</u>	<u>\$ (0.48)</u>
Weighted average shares used to compute basic and diluted net loss per share	<u>19,185,741</u>	<u>18,150,494</u>	<u>18,621,033</u>	<u>14,441,383</u>

See accompanying notes to unaudited consolidated financial statements.

Ocean Power Technologies, Inc. and Subsidiaries
Unaudited Consolidated Statements of Comprehensive Loss
(in thousands)
(Unaudited)

	Three months ended January 31,		Nine months ended January 31,	
	2019	2018	2019	2018
Net loss	\$ (2,611)	\$ (1,663)	\$ (9,741)	\$ (6,903)
Foreign currency translation adjustment	1	11	(4)	19
Total comprehensive loss	<u>\$ (2,610)</u>	<u>\$ (1,652)</u>	<u>\$ (9,745)</u>	<u>\$ (6,884)</u>

See accompanying notes to unaudited consolidated financial statements.

Ocean Power Technologies, Inc. and Subsidiaries
Unaudited Consolidated Statement of Stockholders' Equity
(in thousands, except per share data)

	<u>Common Shares</u>		<u>Treasury Shares</u>		<u>Additional Paid-In Capital</u>	<u>Accumulated Deficit</u>	<u>Accumulated Other Comprehensive Loss</u>	<u>Total Stockholders' Equity</u>
	<u>Shares</u>	<u>Amount</u>	<u>Shares</u>	<u>Amount</u>				
Balances, April 30, 2018	18,424,939	\$ 18	(74,012)	\$ (300)	\$ 208,216	\$ (197,538)	\$ (160)	\$ 10,236
Net loss						(9,741)		(9,741)
Stock based compensation					200			200
Issuance of restricted stock, net	(82,939)	-			-			-
Sale of stock, net of financing costs	1,619,538	2			462			464
Common stock issued for commitment fee	428,571	-			295			295
Acquisition of treasury stock			(1,770)	(1)				(1)
Other comprehensive loss							(4)	(4)
Balances, January 31, 2019	<u>20,390,109</u>	<u>\$ 20</u>	<u>(75,782)</u>	<u>\$ (301)</u>	<u>\$ 209,173</u>	<u>\$ (207,279)</u>	<u>\$ (164)</u>	<u>\$ 1,449</u>

See accompanying notes to unaudited consolidated financial statements.

Ocean Power Technologies, Inc. and Subsidiaries
Unaudited Consolidated Statements of Cash Flows
(in thousands)
(Unaudited)

	Nine months ended January 31,	
	2019	2018
Cash flows from operating activities:		
Net loss	\$ (9,741)	\$ (6,903)
Adjustments to reconcile net loss to net cash used in operating activities:		
Foreign exchange loss/(gain)	43	(107)
Depreciation	135	79
Loss on disposal of property, plant and equipment	-	5
Compensation expense related to stock option grants and restricted stock	200	250
Gain due to the change in fair value of warrant liabilities	(183)	(82)
Changes in operating assets and liabilities:		
Accounts receivable	105	48
Unbilled receivables	71	294
Contract assets	(85)	-
Other assets	(203)	(8)
Accounts payable	(116)	(356)
Accrued expenses	281	(1,399)
Deferred rent	5	2
Deferred credit payable	(600)	-
Unearned revenue	(18)	-
Contract liabilities	256	-
Net cash used in operating activities	(9,850)	(8,177)
Cash flows from investing activities:		
Purchases of marketable securities	(25)	(25)
Maturities of marketable securities	50	25
Leasehold improvements and purchase of equipment	(54)	(554)
Net cash used in investing activities	(29)	(554)
Cash flows from financing activities:		
Proceeds from issuance of common stock, net of costs	464	14,647
Payment of capital lease obligations	(23)	(26)
Acquisition of treasury stock	(1)	(37)
Net cash provided by financing activities	440	14,584
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(58)	143
Net (decrease)/increase in cash, cash equivalents and restricted cash	(9,497)	5,996
Cash, cash equivalents and restricted cash, beginning of period	12,225	8,909
Cash, cash equivalents and restricted cash, end of period	\$ 2,728	\$ 14,905
Supplemental schedule of cash flows information:		
Cash paid for interest	\$ 1	\$ 3
Supplemental disclosure of noncash investing activities:		
Acquisition of leasehold improvements and equipment through accounts payable	\$ -	\$ 3
Acquisition of leasehold improvements and equipment through accrued expenses	-	13
Supplemental disclosure of noncash financing activities:		
Common stock issued for payment of commitment fee	\$ 295	\$ -

See accompanying notes to unaudited consolidated financial statements.

Ocean Power Technologies, Inc. and Subsidiaries
Notes to Unaudited Consolidated Financial Statements

(1) Background, Basis of Presentation and Liquidity

a) Background

Ocean Power Technologies, Inc. (the “Company”) was founded in 1984 in New Jersey, commenced business operations in 1994 and re-incorporated in Delaware in 2007. The Company is developing and commercializing its proprietary systems that generate electricity by harnessing the renewable energy of ocean waves. The Company uses proprietary technologies that convert the mechanical energy created by the heaving motion of ocean waves into electricity. The Company has designed and continues to develop the PowerBuoy® product line which is based on modular, ocean-going buoys, which the Company has been periodically ocean testing since 1997. The Company markets its PowerBuoys® in the United States and internationally. Since fiscal 2002, government agencies have accounted for a significant portion of the Company’s revenues. These revenues were largely for the support of product development efforts relating to our technology. Today our goal is to generate the majority our revenue from the sale or lease of products, and sales of services to support our business operations. As we continue to develop and commercialize our products and services, we expect to have a net loss of cash from operating activities unless and until we achieve positive cash flow from the commercialization of products and services.

b) Basis of Presentation

The accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles (“GAAP”) for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. The interim operating results are not necessarily indicative of the results for a full year or for any other interim period. Further information on potential factors that could affect the Company’s financial results can be found in the Company’s Annual Report on Form 10-K for the year ended April 30, 2018 filed with the Securities and Exchange Commission (“SEC”) and elsewhere in this Form 10-Q.

c) Liquidity/Going Concern

The consolidated financial statements have been prepared assuming the Company will continue as a going concern. The Company has experienced substantial and recurring losses from operations, which have contributed to an accumulated deficit of \$207.3 million as of January 31, 2019. As of January 31, 2019, the Company had approximately \$2.7 million in cash, cash equivalents, and restricted cash on hand. The Company generated revenues of \$0.4 and \$0.3 million during each of the nine months ended January 31, 2019 and 2018. Based on the Company’s cash, cash equivalents and restricted cash balances as of January 31, 2019, the Company believes that it will be able to finance its capital requirements and operations into the quarter ending April 30, 2019. In August 2018, the Company entered into a common stock purchase agreement with Aspire Capital Fund, LLC. As of January 31, 2019, the Company has sold 800,000 shares of common stock with an aggregate market value of \$301,000 at an average price of \$0.38 per share pursuant to this common stock purchase agreement. In January 2019, the Company entered into an At the Market Offering Agreement with A.G.P./Alliance Global Partners. Under the 2019 ATM Facility, during the month of January 2019, the Company issued and sold 819,538 shares of its common stock with an aggregate market value of \$273,735 at an average price of \$0.33 per share and paid AGP a sales commission of approximately \$8,900 related to those shares. Among other things, the Company is currently evaluating a variety of different financing alternatives and we expect to continue to fund our business with sales of our securities and through generating revenue with customers. The Company will require additional equity and/or debt financing to continue its operations into Fiscal Year 2020. The Company cannot provide assurances that it will be able to secure additional funding when needed or at all, or, if secured, that such funding would be on favorable terms. These factors raise substantial doubt about the Company’s ability to continue as a going concern.

The consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business. The consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded assets amounts or the amounts and classification of liabilities that might result from the outcome of this uncertainty.

Management is evaluating different strategies to obtain the required additional funding for future operations. These strategies may include, but are not limited to, continued pursuit of business opportunities, additional funding from current and /or new investors, officers and directors; borrowings of debt; a public offering of the Company’s equity or debt securities; partnerships and/or collaborations. There can be no assurance that any of these future-funding efforts will be successful.

In fiscal 2018 and during the nine months ended January 31, 2019, the Company has continued to make investments in ongoing product development efforts in anticipation of future growth. The Company's future results of operations involve significant risks and uncertainties. Factors that could affect the Company's future operating results and cause actual results to vary materially from expectations include, but are not limited to, risks from lack of available financing and insufficient capital, performance of PowerBuoys®, its inability to market and commercialize its PowerBuoys® and new products that it may develop, technology development, scalability of technology and production, dependence on skills of key personnel, concentration of customers and suppliers, deployment risks and laws, regulations and permitting. In order to continue to implement its business strategy, the Company requires additional equity and/or debt financing. The Company currently has committed sources of equity financing through its common stock purchase agreement with Aspire Capital and At the Market Offering Agreement with Alliance Global Partners (discussed further below), but the Company cannot assure that additional equity and/or debt financing will be available to the Company as needed on acceptable terms, or at all. Historically, the Company has raised capital through securities sales in the public capital markets. If sufficient additional financing is not obtained when needed, the Company may be required to further curtail or limit operations, product development costs, and/or selling, general and administrative activities in order to reduce its cash expenditures. This could cause the Company to be unable to execute its business plan, take advantage of future opportunities and may cause it to scale back, delay or eliminate some or all of its product development activities and/or reduce the scope of or cease its operations.

On May 2, 2017, the Company sold 6,192,750 shares of common stock at a price of \$1.30 per share, which includes the sale of 807,750 shares of the Company's common stock sold by the Company pursuant to the exercise, in full, of the over-allotment option by the underwriters in a public offering. The net proceeds to the Company from the offering were approximately \$7.2 million, after deducting underwriter fees and offering expenses payable by the Company.

On October 23, 2017, the Company sold 5,739,437 shares of common stock at a price of \$1.42 per share in a best efforts public offering. The net proceeds to the Company from the offering were approximately \$7.4 million, after deducting placement fees and offering expenses payable by the Company.

On August 13, 2018, the Company entered into a common stock purchase agreement with Aspire Capital Fund, LLC ("Aspire Capital") which provides that, subject to certain terms, conditions and limitations, Aspire Capital is committed to purchase up to an aggregate of \$10.0 million of shares of the Company's common stock over a 30-month period. In consideration for entering into the agreement, the Company issued to Aspire Capital 428,571 shares of our common stock as a commitment fee. As of January 31, 2019, the Company has sold 800,000 shares of common stock with an aggregate market value of \$301,000 at an average price of \$0.38 per share pursuant to this common stock purchase agreement.

On January 7, 2019, the Company entered into an At the Market Offering Agreement ("2019 ATM Facility") with A.G.P./Alliance Global Partners ("AGP"), under which the Company may issue and sell to or through A.G.P./Alliance Global Partners, acting as agent and/or principal, shares of the Company's common stock having an aggregate offering price of up to \$25 million. Under the 2019 ATM Facility, during the month of January 2019, the Company issued and sold 819,538 shares of its common stock with an aggregate market value of \$273,735 at an average price of \$0.33 per share and paid AGP a sales commission of approximately \$8,900 related to those shares.

The sale of additional equity or convertible securities could result in dilution to stockholders. If additional funds are raised through the issuance of debt securities, these securities could have rights senior to those associated with the Company's common stock and could contain covenants that would restrict its operations. Financing may not be available in amounts or on terms acceptable to the Company, or at all. If the Company is unable to obtain required financing, it may be required to reduce the scope of its operations, including its planned product development and marketing efforts, which could materially and adversely harm its financial condition and operating results. If the Company is unable to secure additional financing, it may be forced to cease operations.

On August 9, 2018, the Company received a notification from the NASDAQ Stock Market (the "NASDAQ") indicating that the minimum bid price of the Company's common stock has been below \$1.00 per share for 30 consecutive business days and as a result, the Company is not in compliance with the minimum bid price requirement for continued listing. The NASDAQ notice has no immediate effect on the listing or trading of the Company's common stock. Under the NASDAQ Listing Rules, the Company has a grace period of 180 calendar days, or until February 5, 2019, in which to regain compliance with the minimum bid price rule. To regain compliance, the closing bid price of the Company's common stock must meet or exceed \$1.00 per share for a minimum of ten consecutive business days during this grace period.

On February 11, 2019, the Company received another written notice from the Listing Qualifications department of NASDAQ notifying the Company that it had not regained compliance with the minimum bid price requirement and that the Company's stockholders' equity as reported in the Company's Quarterly Report on Form 10-Q for the quarter ended October 31, 2018 does not qualify the Company for an additional 180 calendar day extension period for compliance. On February 19, 2019, the Company submitted a letter to appeal the determination to a Hearings Panel (the "Panel"), pursuant to the procedures set forth in the NASDAQ Listing Rule 5800 Series. Such hearing request will stay the suspension of the Company's securities pending the Panel's decision, during which time the Company's common stock will continue to be listed on NASDAQ, and the Company's common stock will continue to trade under the symbol "OPTT". The Company's receipt of the notice does not affect the Company's business, operations or reporting requirements with the SEC.

If our common stock is delisted from NASDAQ, our ability to raise capital through public offerings of our securities and to finance our operations could be adversely affected. See additional risk factors under "Part II, Item 1A – Risk Factors". We also believe that delisting would likely result in decreased liquidity and/or increased volatility in our common stock and could harm our business and future prospects. In addition, we believe that, if our common stock is delisted, our stockholders would likely find it more difficult to obtain accurate quotations as to the price of the common stock and it may be more difficult for stockholders to buy or sell our common stock at competitive market prices, or at all.

(2) Summary of Significant Accounting Policies

(a) Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its majority-owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

(b) Use of Estimates

The preparation of the consolidated financial statements requires management of the Company to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the period. Significant items subject to such estimates and assumptions include the fair value of warrant liabilities, estimated costs to complete projects; and percentage of completion of customer contracts for purposes of revenue recognition. Actual results could differ from those estimates. The current economic environment, particularly the macroeconomic pressures in certain European countries, has increased the degree of uncertainty inherent in those estimates and assumptions.

(c) Cash, Cash Equivalents, Restricted Cash and Security Agreements

Cash and Cash Equivalents

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. The Company invests excess cash in a money market account.

	<u>January 31, 2019</u>	<u>April 30, 2018</u>
	(in thousands)	
Checking and savings accounts	\$ 1,432	\$ 1,332
Money market account	788	10,167
	<u>\$ 2,220</u>	<u>\$ 11,499</u>

Restricted Cash and Security Agreements

A portion of the Company's cash is restricted under the terms of two security agreements.

One agreement is between the Company and Barclays Bank. Under this agreement, the cash is on deposit at Barclays Bank and serves as security for letters of credit and bank guarantees that are expected to be issued by Barclays Bank on behalf of OPT LTD, one of the Company's subsidiaries, under a credit facility established by Barclays Bank for OPT LTD. The credit facility is approximately €0.3 million (\$0.4 million) and carries a fee of 1% per annum of the amount of any such obligations issued by Barclays Bank. The credit facility does not have an expiration date but is cancelable at the discretion of the bank. As of January 31, 2019, there was €0.3 million (\$0.4 million) in letters of credit outstanding under this agreement.

The other agreement is between the Company and Santander Bank. Under the agreement the cash is on deposit at Santander Bank and serves as security for letter of credit issued by Santander Bank for the lease of new warehouse/office space in Monroe Township, New Jersey. The agreement cannot be extended beyond January 31, 2025 and is cancelable at the discretion of the bank. Restricted cash includes the following:

	<u>January 31, 2019</u>		<u>April 30, 2018</u>
	(in thousands)		
Barclay's Bank Agreement	\$ 353	\$	372
Santander Bank	155		354
	<u>\$ 508</u>	<u>\$</u>	<u>726</u>

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the statement of financial position that sum to the total of the same such amounts shown in the statement of cash flows.

	<u>January 31, 2019</u>		<u>April 30, 2018</u>
	(in thousands)		
Cash and cash equivalents	\$ 2,220	\$	11,499
Restricted cash- short term	353		572
Restricted cash- long term	155		154
	<u>\$ 2,728</u>	<u>\$</u>	<u>12,225</u>

(d) Marketable Securities

Marketable securities with original maturities longer than three months but that mature in less than one year from the balance sheet date are classified as current assets. Marketable securities that the Company has the intent and ability to hold to maturity are classified as investments held-to-maturity and are reported at amortized cost. The difference between the acquisition cost and face values of held-to-maturity investments is amortized over the remaining term of the investments and added to or subtracted from the acquisition cost and interest income. As of January 31, 2019, the Company did not have any marketable securities. As of April 30, 2018, all of the Company's investments were classified as held-to-maturity.

(e) Foreign Exchange Gains and Losses

The Company maintains cash accounts that are denominated in British pounds sterling, Euros and Australian dollars. These amounts are included in cash, cash equivalents and restricted cash on the accompanying consolidated balance sheets. Such positions may result in realized and unrealized foreign exchange gains or losses from exchange rate fluctuations, which are included in "Foreign exchange gain/(loss)" in the accompanying consolidated statements of operations.

(f) Property and Equipment

Property and equipment is stated at cost, less accumulated depreciation and amortization. Depreciation and amortization is calculated using the straight-line method over the estimated useful lives (three to seven years) of the assets. Leasehold improvements are amortized using the straight-line method over the shorter of the estimated useful life of the asset or the remaining lease term. Expenses for maintenance and repairs are charged to operations as incurred. Property and equipment is also reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of the asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of the asset exceeds its estimated future cash flows, then an impairment charge is recognized in the amount by which the carrying amount of the asset exceeds the fair value of the asset.

(g) Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentration of credit risk consist principally of cash balances, bank certificates of deposit and trade receivables. The Company invests its excess cash in highly liquid investments (principally, short-term bank deposits, Treasury bills, Treasury notes and money market funds) and does not believe that it is exposed to any significant risks related to its cash accounts, money market funds or certificates of deposit.

The table below shows the percentage of the Company's revenues derived from customers whose revenues accounted for at least 10% of the Company's consolidated revenues for at least one of the periods indicated:

Customer	Three months ended January 31,		Nine months ended January 31,	
	2019	2018	2019	2018
Enel Green Power	0%	0%	5%	0%
Eni S.p.A.	53%	0%	60%	0%
Mitsui Engineering & Shipbuilding	0%	0%	0%	75%
Premier Oil UK Limited	47%	0%	35%	0%
Office of Naval Research	0%	0%	0%	25%
	<u>100%</u>	<u>0%</u>	<u>100%</u>	<u>100%</u>

The loss of, or a significant reduction in revenues from a current customer could significantly impact the Company's financial position or results of operations. The Company does not require its customers to maintain collateral.

(h) Warrant Liabilities

The Company's warrants to purchase shares of its common stock are classified as warrant liabilities and are recorded at fair value. The warrant liabilities are subject to re-measurement at each balance sheet date and the Company recognizes any change in fair value in its consolidated statements of operations within "Gain due to the change in fair value of warrant liabilities." The Company will continue to adjust the carrying value of the warrants for changes in the estimated fair value until such time as these instruments are exercised or expire. At that time, the liabilities will be reclassified to "Additional paid-in capital", a component of "Stockholders' equity" on the consolidated balance sheets.

(i) Net Loss per Common Share

Basic and diluted net loss per share for all periods presented is computed by dividing net loss by the weighted average number of shares of common stock outstanding during the period. Due to the Company's net losses, potentially dilutive securities, consisting of outstanding stock options and non-vested performance-based shares, were excluded from the diluted loss per share calculation due to their anti-dilutive effect.

In computing diluted net loss per share, options to purchase shares of common stock, warrants on common stock and non-vested restricted stock issued to employees and non-employee directors, totaling 1,786,494 for the three and nine months ended January 31, 2019 and 915,183 for the three and nine months ended January 31, 2018, were excluded from each of the computations as the effect would be anti-dilutive due to the Company's losses.

(j) Share-Based Compensation

Costs resulting from all share-based payment transactions are recognized in the consolidated financial statements at their fair values. The following table summarizes share-based compensation related to the Company's share-based plans by expense category for the three and nine months ended January 31, 2019 and 2018:

	Three months ended January 31,		Nine months ended January 31,	
	2019	2018	2019	2018
	(in thousands)			
Product development	\$ (14)	\$ 5	\$ 7	\$ 11
Selling, general and administrative	79	72	193	239
Total share-based compensation expense	<u>\$ 65</u>	<u>\$ 77</u>	<u>\$ 200</u>	<u>\$ 250</u>

(k) Deferred Rent

On March 31, 2017, the Company signed a new 7-year lease for approximately 56,000 square feet in Monroe Township, New Jersey that will be used as warehouse/production space and the Company's principal offices and corporate headquarters. The lease was classified as an operating lease. Rent payments relating to the Monroe premises are subject to annual increases. The minimum monthly payments will vary over the 7-year term of the lease. The Company records rent expense on a straight-line basis over the 7-year term of the lease. The difference between rent expense and the monthly lease payment will go to a deferred rent/prepaid rent account. The Landlord has provided the Company a tenant improvement allowance in an amount up to, but not exceeding, \$137,563 to be applied to the cost of tenant improvement work. The Company recorded lease incentive liability to deferred rent. The Company will release the lease incentive liability on a straight-line basis over the 7-year term to rent expense.

(l) Revenue Recognition

A performance obligation is the unit of account for revenue recognition. The Company assesses the goods or services promised in a contract with a customer and identifies as a performance obligation either: a) a good or service (or a bundle of goods or services) that is distinct; or b) a series of distinct goods or services that are substantially the same and that have the same pattern of transfer to the customer. A contract may contain a single or multiple performance obligations. For contracts with multiple performance obligations, the Company allocates the contracted transaction price to each performance obligation based upon the relative standalone selling price, which represents the price the Company would sell a promised good or service separately to a customer. The Company determines the standalone selling price based upon the facts and circumstances of each obligated good or service. The majority of the Company's contracts have no observable standalone selling price since the associated products and services are customized to customer specifications. As such, the standalone selling price generally reflects the Company's forecast of the total cost to satisfy the performance obligation plus an appropriate profit margin.

The nature of the Company's contracts may give rise to several types of variable consideration, including claims and unpriced change orders; awards and incentive fees; and liquidated damages and penalties. Variable consideration can also arise from modifications to the scope of services. Variable consideration is included in the transaction price to the extent it is probable that a significant reversal of cumulative revenue recognized will not occur once the uncertainty associated with the variable consideration is resolved. Our estimates of variable consideration and determination of whether to include such amounts in the transaction price are based largely on our assessment of legal enforceability, performance and any other information (historical, current, and forecasted) that is reasonably available to us.

The Company recognizes revenue when or as it satisfies a performance obligation by transferring a good or service to a customer, either (1) at a point in time or (2) over time. A good or service is transferred when or as the customer obtains control of it. The evaluation of whether control of each performance obligation is transferred at a point in time or over time is made at contract inception. Input measures such as costs incurred or time elapsed are utilized to assess progress against specific contractual performance obligations for the Company's services. The selection of the method to measure progress towards completion requires judgment and is based on the nature of the services to be provided. For the Company, the input method using costs incurred or time elapsed best represents the measure of progress against the performance obligations incorporated within the contractual agreements. When the Company's estimate of total costs to be incurred to satisfy the performance obligations exceed revenue, the Company recognizes the loss immediately.

The Company classifies leases as either operating or capital lease arrangements in accordance with the authoritative accounting guidance contained within Accounting Standards Codification ("ASC") Topic 840, "Leases". At inception of the contract, the Company evaluates the lease against the four lease classification criteria within ASC Topic 840. In general, if one of the four criteria is met, then the lease is accounted for as a capital lease. All others are treated as an operating lease. For operating leases, lessee payments are recorded to revenue on a straight-line basis over the term of the lease.

The Company's contracts are either cost plus or fixed price contracts. Under cost plus contracts, customers are billed for actual expenses incurred plus an agreed-upon fee. Under cost plus contracts, a profit or loss on a project is recognized depending on whether actual costs are more or less than the agreed upon amount.

The Company has two types of fixed price contracts, firm fixed price and cost-sharing. Under firm fixed price contracts, the Company receives an agreed-upon amount for providing products and services specified in the contract, a profit or loss is recognized depending on whether actual costs are more or less than the agreed upon amount. Under cost-sharing contracts, the fixed amount agreed upon with the customer is only intended to fund a portion of the costs on a specific project. Under cost sharing contracts, an amount corresponding to the revenue is recorded in cost of revenues, resulting in gross profit on these contracts of zero. The Company's share of the costs is recorded as product development expense. The following are percentages of revenues by contract type;

	Three months ended January 31,		Nine months ended October 31,	
	2019	2018	2019	2018
Fixed Price	100%	0%	100%	100%
Firm fixed price	100%	0%	100%	100%
Cost Sharing	0%	0%	0%	0%
Cost Plus	0%	0%	0%	0%
	100%	0%	100%	100%

As of January 31, 2019, the Company's total remaining performance obligations, also referred to as backlog, totaled \$0.9 million. The Company expects to recognize approximately 61%, or \$0.5 million, of the remaining performance obligations as revenue over the next twelve months and an additional 39% the following twelve months.

(m) Recently Issued Accounting Standards

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2014-09, "Revenue from Contracts with Customers (Topic 606)." ASU 2014-09 outlines a new, single comprehensive model for entities to use in accounting for revenue arising from contracts with customers and supersedes most current revenue recognition guidance, including industry-specific guidance. This new revenue recognition model provides a five-step analysis in determining when and how revenue is recognized. The new model will require revenue recognition to depict the transfer of promised goods or services to customers in an amount that reflects the consideration a company expects to receive in exchange for those goods or services. The FASB subsequently issued additional clarifying standards to address issues arising from implementation of the new revenue standard, including a one-year deferral of the effective date for the new revenue standard. Public companies should now apply the guidance in ASU 2014-09 to annual reporting periods beginning after December 15, 2017 and interim periods within those annual periods. Earlier application is permitted only as of annual reporting periods beginning after December 15, 2016, including interim periods within that annual period. As such, the Company is required to adopt this standard effective in fiscal 2019, which begins May 1, 2018. Companies may use either a full retrospective or a modified retrospective approach to adopt ASU 2014-09. Under the full retrospective method, the standard would be applied to each prior reporting period presented and the cumulative effect of applying the standard would be recognized at the earliest period shown. Under the modified retrospective method, the cumulative effect of applying the standard would be recognized at the date of application. Effective May 1, 2018, the Company adopted the requirements of ASU 2014-09 using the modified retrospective method. As a practical expedient, the Company adopted the new standard only for existing contracts as of May 1, 2018, the date of adoption. Any contracts that had expired prior to May 1, 2018 were not evaluated against the new standard. The Company adopted ASU 2014-09 and the adoption did not have a material impact on the Company's consolidated financial position, results of operations or cash flows.

In February 2016, the FASB issued ASU No. 2016-02, “*Leases (Topic 842)*.” The new standard establishes a right-of-use (ROU) model that requires a lessee to record a ROU asset and a lease liability on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. ASU 2016-02 is effective for annual periods beginning after December 15, 2018, including interim periods within those annual periods, with early adoption permitted. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available. In July 2018, the FASB issued ASU No. 2018-11, “*Leases (Topic 842): Targeted Improvements*.” ASU 2018-11 provides companies another transition method in addition to the existing transition method by allowing entities to initially apply the new leases standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. The consideration in the contract is allocated to the lease and non-lease components on a relative standalone price basis (for lessees) or in accordance with the allocation guidance in the new revenue standard (for lessors). ASU 2018-11 also provides lessees with a practical expedient, by class of underlying asset, to not separate non-lease components from the associated lease component. If a lessee makes that accounting policy election, it is required to account for the non-lease components together with the associated lease component as a single lease component and to provide certain disclosures. Lessors are not afforded a similar practical expedient. In December 2018, the FASB issued ASU No. 2018-20, “*Leases (Topic 842): Narrow-Scope Improvements for Lessors*.” ASU 2018-20 provides further guidance to lessors on the following topics; sales taxes and other similar taxes collected from lessees, certain lessor costs and recognition of variable payments for contracts with lease and non-lease components. The amendments in this Update permit lessors, as an accounting policy election, to not evaluate whether certain sales taxes and other similar taxes are lessor costs (as described in paragraph 842-10-15-30(b)) or lessee costs. Instead, those lessors will account for those costs as if they are lessee costs. The amendments in this Update related to certain lessor costs require lessors to exclude from variable payments, and therefore revenue, lessor costs paid by lessees directly to third parties. The amendments in this Update related to recognizing variable payments for contracts with lease and non-lease components require lessors to *allocate* (rather than *recognize* as currently required) certain variable payments to the lease and non-lease components when the changes in facts and circumstances on which the variable payment is based occur. The Company is evaluating the effect ASU 2016-02 will have on its consolidated financial statements and disclosures and has not yet determined the effect of the standard on its ongoing financial reporting at this time.

In August 2016, the FASB issued ASU 2016-15, “*Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments*”, providing additional guidance on eight specific cash flow classification issues. The goal of the ASU is to reduce diversity in practice of classifying certain items. The amendments in the ASU are effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years and early adoption is permitted. The Company has evaluated the effect ASU 2016-15 will have on its consolidated financial statements and disclosures and has determined the standard will have no impact on its ongoing financial reporting at this time.

In May 2017, the FASB issued ASU 2017-09, “*Compensation — Stock Compensation (ASC Topic 718): Scope of Modification Accounting*,” which clarifies when changes to the terms or conditions of a share-based payment award must be accounted for as a modification. Entities should apply the modification accounting guidance if the value, vesting conditions or classification of the award changes. The amendments in the ASU are effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years and early adoption is permitted. The Company has evaluated the effect ASU 2017-09 will have on its consolidated financial statements and disclosures and has determined the standard will have no impact on its ongoing financial reporting at this time.

In August 2018, the FASB issued ASU No. 2018-13, “*Fair Value Measurement (Topic 820)*.” The ASU modifies, removes, and adds several disclosure requirements on fair value measurements in Topic 820, Fair Value Measurement. The ASU 2018-13 is effective for all entities for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. The amendments on changes in unrealized gains and losses, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and the narrative description of measurement uncertainty should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption. All other amendments should be applied retrospectively to all periods presented upon their effective date. Early adoption is permitted upon issuance of ASU 2018-13. An entity is permitted to early adopt any removed or modified disclosures upon issuance of ASU 2018-13 and delay adoption of the additional disclosures until their effective date. The Company is evaluating the effect ASU 2018-13 will have on its consolidated financial statements and disclosures and has not yet determined the effect of the standard on its ongoing financial reporting at this time.

In August 2018, the FASB issued ASU No. 2018-15, “*Intangibles — Goodwill and Other — Internal-Use Software (Subtopic 350-40)*.” The ASU provides for the recognition of an intangible asset for the costs of internal-use software licenses included in a cloud computing arrangement. Costs of arrangements that do not include a software license should be accounted for as a service contract and expensed as incurred. This ASU is effective for fiscal years beginning after December 15, 2019, with early adoption permitted. The ASU permits two methods of adoption: prospectively to all implementation costs incurred after the date of adoption, or retrospectively to each prior reporting period presented. The Company is evaluating the effect ASU 2018-15 will have on its consolidated financial statements and disclosures and has not yet determined the effect of the standard on its ongoing financial reporting at this time.

(3) Account Receivable, Contract Assets, and Contract Liabilities

The following provides further details on the balance sheet accounts of accounts receivable, contract assets, and contract liabilities.

Accounts Receivable

The Company grants credit to its customers, generally without collateral, under normal payment terms (typically 30 to 60 days after invoicing). Generally, invoicing occurs after the related services are performed or control of good has transferred to the customer. Accounts receivable represents an unconditional right to consideration arising from the Company's performance under contracts with customers. The carrying value of such receivables represent their estimated realizable value. Accounts receivable consisted of the following at January 31, 2019 and April 30, 2018.

	<u>January 31, 2019</u>	<u>April 30, 2018</u>
	(in thousands)	
Opening balance	\$ 171	\$ 48
Amount invoiced to customer	664	754
Collections	<u>(769)</u>	<u>(631)</u>
Ending balance	<u>\$ 66</u>	<u>\$ 171</u>

Contract Assets and Contract Liabilities

Contract assets (previously referred to as unbilled receivables). Contract assets include unbilled amounts typically resulting from arrangements whereby the right to payment is conditioned on completing additional tasks or services for a performance obligation. On May 1, 2018, the day of adoption of ASC 2014-09, the Company reclassified \$71,000 of unbilled receivables to contract assets.

Contract liabilities (previously referred to as unearned revenue). Contract liabilities consist of amounts invoiced to customers in excess of revenue recognized. On May 1, 2018, the day of adoption of ASC 2014-09, the Company reclassified \$18,000 of unearned revenue to contract liabilities.

A summary of the contract assets and contract liabilities is as follows:

	<u>January 31, 2019</u>	<u>April 30, 2018</u>
	(in thousands)	
Contract assets	\$ 85	\$ -
Contract liabilities	(256)	-
Contract (liability)/assets, net	<u>\$ (171)</u>	<u>\$ -</u>

The increase in contract assets is primarily a result of services performed but unbilled during the nine months ended January 31, 2019. The increase in contract liabilities is primarily a result of additional amounts invoiced to customers in excess of revenue recognized during the nine months ended January 31, 2019. During the nine months ended January 31, 2019, the Company recognized \$18,000 of revenue that was included in contract liabilities at May 1, 2018. During the nine months ended January 31, 2019, the Company recognized revenue of \$149,000 related to performance obligations that were partially satisfied in previous periods.

(4) Marketable Securities

Marketable securities with initial maturities greater than three months but that mature within one year from the balance sheet date are classified as current assets. For the periods ended January 31, 2019 and April 30, 2018 the Company had zero and \$25,000 in certificates of deposit.

(5) Accrued Expenses

Accrued expenses consist of the following at January 31, 2019 and April 30, 2018.

	<u>January 31, 2019</u>	<u>April 30, 2018</u>
	(in thousands)	
Project costs	\$ 223	\$ 57
Contract loss reserve	410	395
Employee incentive payments	724	761
Accrued salary and benefits	485	442
Legal and accounting fees	391	246
Accrued taxes payable	177	179
Other	123	181
	<u>\$ 2,533</u>	<u>\$ 2,261</u>

(6) Deferred Credits Payable

During the year ended April 30, 2001, in connection with the sale of common stock to an investor, the Company received \$0.6 million from the investor in exchange for an option to purchase up to 500,000 metric tons of carbon emissions credits generated by the Company during the years 2008 through 2012, at a 30% discount from the then-prevailing market rate. If the Company received emission credits under applicable laws and failed to sell to the investor the credits up to the full amount of emission credits covered by the option, the investor was entitled to liquidated damages equal to 30% of the aggregate market value of the shortfall in emission credits (subject to a limit on the market price of emission credits). Under the terms of the agreement, if the Company did not become entitled under applicable laws to the full amount of emission credits covered by the option by December 31, 2012, the Company was obligated to return the option fee of \$0.6 million, less the aggregate discount on any emission credits sold to the investor prior to such date. In December 2012, the Company and the investor agreed to extend the period for the sale of emission credits until December 31, 2017. The Company did not generate any emissions credits eligible for purchase under the agreement, and it was agreed by the investor and the Company that the Company return the option fee of \$0.6 million, which was completed as of August 31, 2018. As a result, this matter is completely resolved, and no additional amounts are owed by the Company to the investor.

(7) Warrants

On June 2, 2016, the Company entered into a securities purchase agreement, which was amended on June 7, 2016 (as amended, the "June Purchase Agreement") with certain institutional purchasers (the "June Purchasers"). Pursuant to the terms of the June Purchase Agreement, the Company sold an aggregate of 417,000 shares of Common Stock together with warrants to purchase up to an aggregate of 145,952 shares of Common Stock. Each share of Common Stock was sold together with a warrant to purchase 0.35 of a share of Common Stock at a combined purchase price of \$4.60. The warrants have an exercise price of \$6.08 per share, became exercisable on December 3, 2016 ("Initial Exercise Date"), and will expire five years following the Initial Exercise Date.

On July 22, 2016, the Company entered into a Second Amendment to the Purchase Agreement (the "Second Amended Purchase Agreement") with certain institutional purchasers (the "July Purchasers"). Pursuant to the terms of the Second Amended Purchase Agreement, the Company sold an aggregate of 595,000 shares of Common Stock together with warrants to purchase up to an aggregate of 178,500 shares of Common Stock. Each share of Common Stock was sold together with a warrant to purchase 0.30 of a share of Common Stock at a combined purchase price of \$6.75. The Warrants were exercisable immediately at an exercise price of \$9.36 per share. The Warrants will expire on the fifth (5th) anniversary of the initial date of issuance.

Both sets of warrants contain a feature whereby they could require the transfer of assets and therefore are classified as a liability in accordance with ASC 480. As such, the warrants had a value of \$18,000 and \$201,000 at January 31, 2019 and April 30, 2018, respectively, as reflected within "Warrant liabilities" in the unaudited consolidated balance sheets.

An unrealized gain of approximately \$47,000 and \$14,000 for the three months ended January 31, 2019 and 2018 and \$183,000 and \$82,000 for the nine months ended January 31, 2019 and 2018, respectively, were included within "Gain due to change in fair value of warrant liability" in the consolidated statements of operations. The Company determined the fair value using the Black-Scholes option pricing model with the following assumptions:

	<u>January 31, 2019</u>	<u>January 31, 2018</u>
Dividend rate	0.0%	0.0%
Risk-free rate	2.4%	2.3% - 2.4%
Expected life (years)	2.5 - 2.8	3.5 - 3.8
Expected volatility	90.8% - 142.7%	137.5% - 145.2%

(8) Stock-Based Compensation

In 2007, the Company's 2006 Stock Incentive Plan (the "2006 Plan") became effective. A total of 80,321 shares were authorized for issuance under the 2006 Plan. In 2009, an amendment to the 2006 Plan was approved by the Company's stockholders, increasing the aggregate number of shares authorized for issuance by 85,000 shares to 165,321. On October 2, 2013, a further amendment to the 2006 Plan was approved by the Company's stockholders, increasing the aggregate number of shares authorized for issuance by an additional 80,000 shares to 245,321. The Company's employees, officers, directors, consultants and advisors were eligible to receive awards under the 2006 Plan. The 2006 Plan was administered by the Company's board of directors, who were authorized to delegate authority to one or more committees or subcommittees of the board of directors or to the Company's officers. The 2006 Plan was terminated in December 2015 and unused shares in that plan were transferred to the 2015 Omnibus Incentive Plan.

In 2015, upon approval by the Company's stockholders, the Company's 2015 Omnibus Incentive Plan (the "2015 Plan") became effective. A total of 240,703 shares were authorized for issuance under the 2015 Omnibus Incentive Plan, including shares available for awards under the 2006 Stock Incentive Plan remaining at the time that plan terminated, or that were subject to awards under the 2006 Stock Incentive Plan that thereafter terminated by reason of expiration, forfeiture, cancellation or otherwise. On October 21, 2016 upon approval by the Company's stockholders the Company increased the number of shares authorized for issuance to 640,703. On December 7, 2018, upon approval by the Company's stockholders, the Company increased the number of shares authorized for issuance to 2,640,703. If any award under the 2006 Stock Incentive Plan or 2015 Plan expires, is cancelled, terminates unexercised or is forfeited, those shares become again available for grant under the 2015 Plan. The 2015 Plan will terminate ten years after its effective date, in October 2025, but is subject to earlier termination as provided in the 2015 Plan. As of January 31, 2019, the Company has 1,129,490 shares available for future issuance under the 2015 Plan.

On January 18, 2018, the Company's Board of Directors adopted the Company's Employment Inducement Incentive Award Plan (the "2018 Inducement Plan") pursuant to which the Company reserved 500,000 shares of common stock for issuance under the Inducement Plan. In accordance with Rule 5635(c)(4) and Rule 5635(c)(3) of the Nasdaq Listing Rules, awards under the Inducement Plan may only be made to individuals not previously employees of the Company (or following such individuals' bona fide period of non-employment with the Company), as an inducement material to the individuals' entry into employment with the Company. An award is any right to receive the Company's common stock pursuant to the 2018 Inducement Plan, consisting of a performance share award, restricted stock award, a restricted stock unit award or a stock payment award. As of January 31, 2019, there were 18,859 shares outstanding and 481,141 shares available for grant under the 2018 Inducement Plan.

(a) Stock Options

The Company estimates the fair value of each stock option granted, for both service-based and performance-based vesting requirements, using the Black-Scholes option pricing model, assuming no dividends, and using the weighted average valuation assumptions noted in the following table. The risk-free rate is based on the US Treasury yield curve in effect at the time of grant. The expected life (estimated period of time outstanding) of the stock options granted was estimated using the "simplified" method as permitted by the SEC's Staff Accounting Bulletin No. 110, *Share-Based Payment*. Expected volatility was based on the Company's historical volatility over the expected life of the stock option granted. There were 995,000 shares granted in the three and nine months ended January 31, 2019 and 170,664 shares granted in the nine months ended January 31, 2018. No shares were granted in the three months ended January 31, 2018. The following assumptions were used for the three and nine months ended January 31, 2019 and 2018.

	Three months ended January 31,		Nine months ended January 31,	
	2019	2018	2019	2018
Risk-free interest rate	2.7%	N/A	2.7%	2.1%
Expected dividend yield	0.0%	N/A	0.0%	0.0%
Expected life (in years)	5.5	N/A	5.5	5.5
Expected volatility	126.4%	N/A	126.4%	128.2%

A summary of stock options under our stock incentive plans is detailed in the following table.

	Shares Underlying Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (In Years)
Outstanding as of April 30, 2018	388,529	\$ 6.15	7.4
Granted	995,000	\$ 0.41	
Exercised	-	\$ -	
Cancelled/forfeited	(30,459)	\$ 43.85	
Outstanding as of January 31, 2019	<u>1,353,070</u>	\$ 1.08	9.2
Exercisable as of January 31, 2019	<u>358,012</u>	\$ 2.94	7.3

As of January 31, 2019, the total intrinsic value of both outstanding and exercisable options was approximately zero. As of January 31, 2019, approximately 995,051 additional options were unvested, which had no intrinsic value and a weighted average remaining contractual term of 9.9 years. There was approximately \$151,000 and \$177,000 of total recognized compensation cost related to stock options during each of the nine months ended January 31, 2019 and 2018, respectively. As of January 31, 2019, there was approximately \$301,000 of total unrecognized compensation cost related to non-vested stock options granted under the plans. This cost is expected to be recognized over a weighted-average period of 0.9 years. The Company typically issues newly authorized but unissued shares to satisfy option exercises under these plans.

(b) Restricted Stock

Compensation expense for non-vested restricted stock is generally recorded based on its market value on the date of grant and recognized ratably over the associated service and performance period. During the nine months ended January 31, 2019, the Company granted 18,859 shares subject to service-based vesting requirements.

A summary of non-vested restricted stock under our stock incentive plans is as follows:

	Number of Shares	Weighted Average Price per Share
Issued and unvested at April 30, 2018	197,064	\$ 1.35
Granted	18,859	\$ 1.14
Vested	(5,154)	\$ 3.22
Cancelled/forfeited	(101,797)	\$ 1.12
Issued and unvested at January 31, 2019	<u>108,972</u>	\$ 1.44

There was approximately \$49,000 and \$73,000 of total recognized compensation cost related to restricted stock for the nine months ended January 31, 2019 and 2018, respectively. As of January 31, 2019, there was approximately \$44,000 of total unrecognized compensation cost related to unvested restricted stock granted under our plans. This cost is expected to be recognized over a weighted average period of 1.1 years.

(c) **Treasury Stock**

During the nine months ended January 31, 2019 and 2018, 1,770 and 25,947 shares, respectively, of common stock was purchased by the Company from employees to pay taxes related to the vesting of restricted stock.

(9) **Fair Value Measurements**

The Company measures and reports certain financial and non-financial assets and liabilities on a fair value basis. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). GAAP specifies a three-level hierarchy that is used when measuring and disclosing fair value. The fair value hierarchy gives the highest priority to quoted prices available in active markets (i.e., observable inputs) and the lowest priority to data lacking transparency (i.e., unobservable inputs). An instrument’s categorization within the fair value hierarchy is based on the lowest level of significant input to its valuation. The following is a description of the three hierarchy levels.

- Level 1** Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities. Active markets are considered to be those in which transactions for the assets or liabilities occur in sufficient frequency and volume to provide pricing information on an ongoing basis.
- Level 2** Quoted prices in markets that are not active, or inputs which are observable, either directly or indirectly, for substantially the full term of the asset or liability. This category includes quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in inactive markets.
- Level 3** Unobservable inputs are not corroborated by market data. This category is comprised of financial and non-financial assets and liabilities whose fair value is estimated based on internally developed models or methodologies using significant inputs that are generally less readily observable from objective sources.

Transfers into or out of any hierarchy level are recognized at the end of the reporting period in which the transfers occurred. There were no transfers between any levels during each of the three and nine months ended January 31, 2019 and 2018.

The following information is provided to help readers gain an understanding of the relationship between amounts reported in the accompanying consolidated financial statements and the related market or fair value. The disclosures include financial instruments and derivative financial instruments, other than investment in affiliates.

Following are descriptions of the valuation methodologies used to measure material assets and liabilities at fair value and details of the valuation models, key inputs to those models and significant assumptions utilized.

Warrant Liabilities

The fair value of the Company’s warrant liabilities (refer to Note 7) recorded in the Company’s financial statements is determined using the Black-Scholes option pricing model and the quoted price of the Company’s common stock in an active market, volatility and expected life, is a Level 3 measurement. Volatility is based on the actual market activity of the Company’s stock. The expected life is based on the remaining contractual term of the warrants and the risk-free interest rate is based on the implied yield available on U.S. Treasury Securities with a maturity equivalent to the warrants’ expected life.

The following table presents financial assets and liabilities measured at fair value on a recurring basis as of January 31, 2019.

	Total Carrying Value in Consolidated Balance Sheet	Quoted prices in active markets for identical assets or liabilities (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
		(in thousands)		
Warrant liabilities	\$ 18	\$ -	\$ -	\$ 18

The following table presents financial assets and liabilities measured at fair value on a recurring basis as of April 30, 2018.

	Total Carrying Value in Consolidated Balance Sheet	Quoted prices in active markets for identical assets or liabilities (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
	(in thousands)			
Warrant liabilities	\$ 201	\$ -	\$ -	\$ 201

The following table provides a summary of changes in fair value of the Company's warrant liabilities held at January 31, 2019.

Fair Value Measurement Using Significant Unobservable Inputs (Level 3)	
	Total Warrant Liability (in thousands)
Fair value – April 30, 2017	\$ 323
Change in fair value	(122)
Fair value – April 30, 2018	<u>\$ 201</u>
Change in fair value	(183)
Fair value – January 31, 2019	<u>\$ 18</u>

There were no re-measured assets or liabilities at fair value on a non-recurring basis during the three and nine months ended January 31, 2019 and 2018, respectively.

(10) Commitments and Contingencies

(a) Litigation

Shareholder Litigation and Demands

The Company and certain of its current and former directors and officers were identified as defendants in a derivative lawsuit filed on March 18, 2015 in the United States District Court for the District of New Jersey captioned *Labare v. Dunleavy, et. al.*, Case No. 3:15-cv-01980-FLW-LHG. The derivative complaint alleged claims for breach of fiduciary duty, abuse of control, gross mismanagement and unjust enrichment relating to the now terminated agreement between Victorian Wave Partners Pty. Ltd. (VWP) and the Australian Renewable Energy Agency (ARENA) for the development of a wave power station. The derivative complaint seeks unspecified monetary damages and other relief.

On July 10, 2015, a second derivative lawsuit, captioned *Rywolt v. Dunleavy, et al.*, Case No. 3:15-cv-05469, was filed by another shareholder against the same defendants in the United States District Court for the District of New Jersey alleging similar claims for breach of fiduciary duty, gross mismanagement, abuse of control, and unjust enrichment relating to the now terminated agreement between VWP and ARENA. The *Rywolt* complaint also sought unspecified monetary damages and other relief.

On April 21, 2016, a third derivative lawsuit, captioned *LaCalamito v. Dunleavy, et al.*, Case No. 3:16-cv-02249, was filed by another shareholder against certain current and former directors and officers of the Company in the United States District Court for the District of New Jersey alleging similar claims for breach of fiduciary duty relating to the now terminated agreement between VWP and ARENA. The *LaCalamito* complaint sought unspecified monetary damages and other relief.

On June 9, 2016, a fourth derivative lawsuit, captioned *Pucillo v. Dunleavy, et al.*, was filed by another shareholder against certain current and former directors and officers of the Company in the United States District Court for the District of New Jersey alleging similar claims for breach of fiduciary duty, unjust enrichment, and abuse of control relating to the now terminated agreement between VWP and ARENA. The *Pucillo* complaint sought unspecified monetary damages and other relief.

On October 25, 2016, the Court approved and entered a Stipulation and Order that, among other things, (i) consolidated the *Labare*, *Rywolt*, *LaCamito* and *Pucillo* derivative actions; (ii) identified plaintiff *Pucillo* as the lead plaintiff in the consolidated actions; and (iii) stayed the consolidated actions pending the November 14, 2016 settlement hearing in the now-settled securities class action and further order of the Court.

On October 23, 2017, the parties entered into a Stipulation and Agreement of Settlement to resolve the four consolidated derivative lawsuits. The settlement provided for, among other things, the Company to implement certain corporate governance changes, a \$350,000 payment to the plaintiffs' attorneys for attorneys' fees and costs that will be made by the Company's insurance carrier, dismissal of the derivative lawsuits, and certain releases. On November 21, 2017, the plaintiffs filed an unopposed motion seeking preliminary approval of the settlement, which the Court granted on March 9, 2018. On May 14, 2018, the Court held a final hearing at the Court stated that it was approving the settlement. On June 13, 2018 the Court issued a Final Order and Judgement, approving the Stipulation and Agreement Settlement. The Company had accrued \$350,000 related to this matter as a probable and reasonably estimable loss contingency during the twelve months ended April 30, 2018. The Company also had recorded a receivable of \$350,000 from its insurance carrier with the offset to the statement of operations. The Company's insurance carrier made a payment of \$350,000 to the plaintiffs' attorneys on May 3, 2018. As a result, the consolidated derivatives lawsuits are now completely resolved, the releases are operative, and the matter is closed.

On May 26, 2017, an attorney claiming to represent two stockholders sent the Company's Board of Directors a Stockholder Litigation Demand letter ("Stockholder Demand"). The Stockholder Demand alleges that the voting of shares for the 1-for-10 reverse stock split at the 2015 annual meeting of stockholders held on October 22, 2015 was not properly counted, and further alleges that, although the Company reported the reverse stock split as having been passed, if the vote was properly counted the reverse stock split would not have been approved. The Stockholder Demand requests the Board of Directors either to deem the reverse stock split as ineffective and disclose the same or to seek a proper and effective stockholder ratification of the reverse stock split. In addition, the Stockholder Demand requests the Board of Directors to adopt and implement adequate internal controls and systems to prevent the alleged improper voting from recurring. On June 23, 2017, the Company responded to the Stockholder Demand, explained the procedures that were followed for the 2015 annual meeting of stockholders and provided the Oath of the Inspector of Elections and the Certificate of the Inspector of Elections that certified as accurate the results of the voting at the meeting including voting on the reverse stock split proposal. On June 26, 2017, the attorney representing the alleged stockholders replied to the Company's response, further alleged that the proxy statement underlying the 2015 annual meeting provided voting instructions that allegedly misled the stockholders regarding whether their brokers could vote on the reverse stock split proposal and renewed their requests of the Board. On July 24, 2017, the Company provided an additional response to the Stockholders Demand, denied the allegations, and declined to take any of the actions requested.

Employment Litigation

On June 10, 2014, the Company announced that it had terminated Charles Dunleavy as its Chief Executive Officer and as an employee of the Company for cause, effective June 9, 2014, and that Mr. Dunleavy had also been removed from his position as Chairman of the Board of Directors. On June 17, 2014, Mr. Dunleavy wrote to the Company stating that he had retained counsel to represent him in connection with an alleged wrongful termination of his employment. On July 28, 2014, Mr. Dunleavy resigned from the Board and the boards of directors of the Company's subsidiaries. In 2014, the Company and Mr. Dunleavy entered into a tolling agreement with respect to his alleged employment claims pending resolution of a securities class action and shareholder derivative litigation. The securities class action was resolved in November 2017 and the derivatives litigation was resolved in June 2018.

On August 28, 2018, counsel for Mr. Dunleavy filed a demand for arbitration, captioned *Charles F. Dunleavy v. Ocean Power Technologies, Inc.*, Case No. 01-18-0003-2374, before the American Arbitration Association in New Jersey. The demand names Ocean Power Technologies, Inc. as the respondent and alleges various claims and seeks declaratory relief and permanent injunction. The demand seeks damages in the amount of \$5 million for compensatory and punitive damages, plus interest and attorneys' fees as well as certain equitable relief. On November 8, 2018, the Company through counsel responded to the demand for arbitration, denied all allegations, and asserted various affirmative defenses. The parties have completed the process of selecting a 3-person arbitration panel, but the panel has not yet scheduled an initial status conference and the parties have not yet scheduled or commenced any discovery. As of January 31, 2019, the Company has not accrued any provision related to this matter since it cannot reasonably estimate the loss contingency.

Tide Runner Marine, Inc.

On June 13, 2018, Tide Runner Marine, Inc. ("Tide Runner") filed a lawsuit in the United States District Court for the District of New Jersey captioned *Tide Runner Marine, Inc. v. Ocean Power Technologies, Inc.*, Case No. 1:18-cv-10496. The complaint names the Company as defendant and alleges claims for breach of contract, unjust enrichment, conversion, and fraud, negligent and/or reckless misrepresentation all as associated with the removal of a Company mooring system off the coast of New Jersey that was completed in May 2017. The complaint seeks damages in the amount of \$2,825,130 together with interest, costs, attorney's fees, punitive damages and such other relief as may be appropriate under the circumstances. On July 27, 2018, the Company filed an answer denying the claims in the complaint, asserted various affirmative defenses, and asserted a counter-claim for damages in the amount of \$15,000 for Tide Runner's failure to pay the Company for certain portions of the mooring system that were recovered. On August 2, 2018, Tide Runner filed its answer to and denied the Company's counterclaim and asserted various affirmative defenses. During the initial scheduling conference held on September 13, 2018, the parties agreed to engage in mediation in an effort to resolve this matter and also agreed to include Tide Runner's subcontractor, Wittich Bros. Marine Inc. ("Wittich") in the mediation process. The parties participated in mediation on November 15, 2018 but were unable to reach an agreement. However, the parties agreed to continue the mediation process and on February 11, 2019 reached a settlement agreement. On February 22, 2019, the parties executed a Settlement Agreement and Release ("Settlement"). Under the Settlement, the Company will pay to Wittich (i) \$50,000 within 10 days after the final execution of the Settlement and (ii) another \$150,000 on or before May 1, 2019. Further, the parties will file a stipulation of dismissal of both Tide Runner's complaint and the Company's counterclaim with prejudice and without costs. Finally, the parties have provided mutual releases for the matters in dispute in the litigation and indemnify each other for future similar claims. As of January 31, 2019, the Company has recorded the settlement within Accrued liabilities in the Consolidated Balance Sheet.

Spain Income Tax Audit

The Company is currently undergoing an income tax audit in Spain for the period from 2008 to 2014, when our Spanish branch was closed. The branch reported net operating losses for each of the years reported that the Spanish tax inspector claims should have been capitalized on the balance sheet instead of charged as an expense in the Statement of Operations. As of April 30, 2017, the Company had recorded a penalty of \$132,000 to Selling, general and administrative costs in the Statement of Operations. The Spanish tax inspector has recently closed its discussion relating to the capitalization of expenses and as of April 30, 2018 the Company reversed the penalty. However, the Spanish tax inspector has now raised questions with respect to the Company's recognition of funds received in 2011 to 2014 from a governmental grant from the European Commission in connection with the Waveport project. It is anticipated that the Company will be assessed a penalty relating to these tax years. The Company has estimated this penalty to be \$177,000 which is recorded within Accrued liabilities in the Consolidated Balance Sheet.

(11) Income Taxes

During the three and nine months ended January 31, 2019, the Company recorded an income tax benefit of \$0.9 million, representing the proceeds from the sale of \$9.1 million of New Jersey net operating loss carryforwards and research and development tax credits. During the three and nine months ended January 31, 2018, the Company recorded an income tax benefit of \$1.1 million representing the proceeds from the sale of \$11.4 million of New Jersey net operating loss carryforwards and research and development tax credits.

Other than the sale of New Jersey net operating loss carryforwards, the Company did not recognize any consolidated income tax benefit (expense) during the three and nine months ended January 31, 2019 and 2018. The Company has recorded a valuation allowance to reduce its net deferred tax asset to an amount that is more likely than not to be realized in future years. Accordingly, the benefit of the net operating loss that would have been recognized was offset by changes in the valuation allowance.

Uncertain Tax Positions

The Company applies the guidance issued by the FASB for the accounting and reporting of uncertain tax positions. The guidance requires the Company to recognize in its consolidated financial statements the impact of a tax position if that position is more likely than not to be sustained upon examination, based on the technical merits of the position. We are currently undergoing an income tax audit in Spain for the period from 2008 to 2014, when our Spanish branch was closed. The branch reported net operating losses for each of the years reported. It is anticipated that we will be assessed a penalty relating to these tax years for these losses. We have estimated this penalty to be \$177,000, and as such, for the period ended January 31, 2019 and April 30, 2018, we have recorded \$177,000 for this penalty to Accrued expenses in the Balance Sheet. At January 31, 2019 the Company had no other unrecognized tax positions. The Company does not expect any material increase or decrease in its income tax expense in the next twelve months, related to examinations or uncertain tax positions. U.S. federal and state income tax returns were audited through fiscal 2014 and fiscal 2010 respectively. Net operating loss and credit carry forwards since inception remain open to examination by taxing authorities and will continue to remain open for a period of time after utilization.

(12) Operating Segments and Geographic Information

The Company's business consists of one segment as this represents management's view of the Company's operations. The Company operates on a worldwide basis with one operating company in the US and subsidiaries in the UK and in Australia. Revenues and expenses are generally attributed to the operating unit that bills the customers. During the three and nine months ended January 31, 2019 and 2018, the Company's primary business operations were in North America.

(13) Adoption of Revenue Recognition Guidance

The Company adopted the new revenue recognition guidance effective May 1, 2018, using the modified retrospective method. The primary impact of the new guidance was a change in the timing of revenue recognition on certain long-term contracts. The new guidance does not change the total sales or operating income on the related customer contracts, only the timing of when sales and operating income are recognized. The Company uses the expected cost plus a margin approach and lease accounting literature for revenue recognition on customer contracts. The impact of the adoption for the three and nine months ended January 31, 2019 was an increase of \$51,000 and \$130,000 to net loss. Further, as the Company's adoption of the guidance decelerated the timing of revenue recognition on the Company's contracts, the adoption resulted in an \$130,000 increase in the Company's remaining performance obligations, also referred to as backlog, as of January 31, 2019.

The following tables present how the adoption of the new revenue recognition standard affected certain line items in the Company's unaudited condensed statement of operations for the three and nine months ended January 31, 2019.

	Nine months ended January 31, 2019		
	As Reported	Effect of Adoption	Amounts Excluding Effect of Adoption
Revenues	\$ 440	\$ (130)	\$ 570
Operating loss	(10,754)	(130)	(10,624)
Net loss	\$ (9,741)	\$ (130)	\$ (9,611)
Basic and diluted net loss per share	\$ (0.52)	\$ 0.00	\$ (0.52)
Weighted average shares used to compute basic and diluted net loss per share	18,621,033	18,621,033	18,621,033

Three months ended January 31, 2019

	<u>As Reported</u>	<u>Effect of Adoption</u>	<u>Amounts Excluding Effect of Adoption</u>
Revenues	\$ 268	\$ (51)	\$ 319
Operating loss	(3,522)	(51)	(3,471)
Net loss	\$ (2,611)	\$ (51)	\$ (2,560)
Basic and diluted net loss per share	\$ (0.14)	\$ (0.01)	\$ (0.13)
Weighted average shares used to compute basic and diluted net loss per share	19,185,741	19,185,741	19,185,741

The following tables present how the adoption of the new revenue recognition standard affected certain line items in the Company's unaudited statement of comprehensive loss for the three and nine months ended January 31, 2019.

Nine months ended January 31, 2019

	<u>As Reported</u>	<u>Effect of Adoption</u>	<u>Amounts Excluding Effect of Adoption</u>
Net loss	\$ (9,741)	\$ (130)	\$ (9,611)
Foreign currency translation adjustment	(4)	-	(4)
Total comprehensive loss	\$ (9,745)	\$ (130)	\$ (9,615)

Three months ended January 31, 2019

	<u>As Reported</u>	<u>Effect of Adoption</u>	<u>Amounts Excluding Effect of Adoption</u>
Net loss	\$ (2,611)	\$ (51)	\$ (2,560)
Foreign currency translation adjustment	1	-	1
Total comprehensive loss	\$ (2,610)	\$ (51)	\$ (2,559)

The following tables present how the adoption of the new revenue recognition standard affected certain line items in the Company's unaudited consolidated balance sheet as of January 31, 2019.

As of January 31, 2019

	<u>As Reported</u>	<u>Effect of Adoption</u>	<u>Amounts Excluding Effect of Adoption</u>
ASSETS			
Contract assets	\$ 85	\$ (65)	\$ 150
Total assets	\$ 4,577	\$ (65)	\$ 4,642
LIABILITIES AND STOCKHOLDERS' EQUITY			
Contract liability	\$ 256	\$ 65	\$ 191
Accumulated deficit	(207,279)	(130)	(207,149)
Total stockholders' equity	\$ 1,449	\$ (65)	\$ 1,514
Total liabilities and stockholders' equity	\$ 4,577	\$ (65)	\$ 4,642

The following tables present how the adoption of the new revenue recognition standard affected certain line items in the Company’s unaudited consolidated statement of cash flows for the nine months ended January 31, 2019.

	Nine months ended January 31, 2019		
	As Reported	Effect of Adoption	Amounts Excluding Effect of Adoption
Net loss	\$ (9,741)	\$ (130)	\$ (9,611)
Contract assets	(85)	65	(150)
Contract liability	256	65	191
Net cash used in operating activities	\$ (9,850)	\$ -	\$ (9,850)
Net increase in cash, cash equivalents and restricted cash	\$ (9,497)	\$ -	\$ (9,497)
Cash, cash equivalents and restricted cash, end of period	\$ 2,728	\$ -	\$ 2,728

(14) Subsequent Event

At the special meeting of stockholders of Ocean Power Technologies, Inc. on March 8, 2019, our stockholders approved a proposal to amend our Certificate of Incorporation to effect a reverse split of our common stock, par value \$0.001 (“common stock”), at a ratio to be determined by the Company’s Board of Directors within a specific range and a reduction in the authorized number of shares of our common stock. After the special meeting of stockholders, the Company’s Board of Directors convened and decided to initiate the reverse split, chose a ratio, and direct the Company’s management to take the necessary steps to effectuate the reverse split as soon as possible. The Company plans to file a Certificate of Amendment to our Certificate of Incorporation to affect a one-for-twenty reverse stock split of our common stock (the “Reverse Stock Split”). As of the effective date of the Reverse Stock Split, every twenty shares of issued and outstanding common stock will be combined into one issued and outstanding share of common stock, without any change in the par value per share. Any fractional shares in connection with the Reverse Stock Split will be rounded up to the nearest whole share and no cash payments will be made by the Company to stockholders in lieu of fractional shares.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis should be read in conjunction with the accompanying unaudited consolidated financial statements and related notes included in this Quarterly Report on Form 10-Q. Some of the information contained in this management's discussion and analysis or set forth elsewhere in this Form 10-Q, including information with respect to our plans and strategy for our business, pending and threatened litigation and our liquidity includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section of our Annual Report on Form 10-K for the year ended April 30, 2018 for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis. References to a fiscal year in this Form 10-Q refer to the year ended April 30 of that year (e.g., fiscal 2018 refers to the year ended April 30, 2018).

Overview

Nearly 70% of the earth's surface is covered by water, and over 40% of the world's population lives within approximately 150 miles of a coast. Thousands of information gathering and/or power systems are deployed in the oceans today to increase our understanding of weather, climate change, biological processes, and marine mammal patterns as well as supporting exploration, security and defense and operations for industries such as oil and gas. Most of these systems are powered by battery, solar, wind, fuel cell, or fossil fuel generators that may be unreliable and expensive to operate while they also may be limited in their ability to deliver ample electric power. These current systems often necessitate significant tradeoffs in sensor accuracy, data processing and communications bandwidth and frequency in order to operate given limited available power. More persistent power systems requiring less maintenance, such as our systems, may have the ability to save costs over these current systems. Equally important are increases in available power may allow for better sensors, faster data sampling and higher frequency communication intervals up to real-time which could as a result improve scientific, safety, security and economic returns.

Founded in 1984 and headquartered in Monroe Township, New Jersey, we believe we are the leader in ocean wave power conversion technology. Our PB3 PowerBuoy® is our first fully commercial product which generates electricity by harnessing the renewable energy of ocean waves. In addition to our PB3 PowerBuoy®, we continue to develop our PowerBuoy® product line based on modular, ocean-going buoys, which we have been periodically ocean testing since 1997.

The PB3 PowerBuoy® generates power for use in remote offshore locations, independent of a conventional power grid. It features a unique onboard power take-off ("PTO") system, which incorporates both energy storage and energy management and control systems. The PB3 generates a nominal name-plated capacity rating of up to 3 kilowatts ("kW") of peak power during recharging of the onboard batteries. Power generation is deployment-site dependent whereby average power generated can increase substantially at very active sites. Our standard energy storage system ("ESS") has an energy capacity of up to a nominal 150 kilowatt-hours ("kWh") to meet specific application requirements. We believe there is a substantial addressable market for the current capabilities of our PB3, which we believe could be utilized in a variety of applications.

In addition to leveraging earlier design aspects of our autonomous PowerBuoy®, the PB3 has undergone extensive factory and in-ocean design validation testing. Currently, our engineering efforts are continuing to expand the PowerBuoy® capability with simplified deployment and mooring options and working together with our customer base to ensure flexible systems integration and to optimize energy output. Our marketing efforts are focused on applications in remote offshore locations that require reliable and persistent power and communications, either by supplying electric power to payloads that are integrated directly in or on our PowerBuoy® or located in its vicinity, such as on the seabed and in the water column.

Based on our market research and publicly available data, we believe that numerous markets have a direct need for our PowerBuoys® including oil and gas, security and defense, science and research, and communications. Depending on payload power requirements, sensor types and other considerations, we have found that our PowerBuoy® could satisfy several application requirements within these markets. We believe that the PB3 persistently generates sufficient power to meet the requirements of many potential customer applications within our target markets.

Since fiscal 2002, government agencies have accounted for a significant portion of our revenues. These revenues were largely for the support of our development efforts relating to our technology. Today our goal is to generate the majority of our revenue from the sale or lease of our products, and sales of services to support our business operations. As we continue to develop and commercialize our products, we expect to have a net loss of cash from operating activities unless and until we achieve positive cash flow from the commercialization of our products and services. During fiscal 2018 and the first nine months of fiscal year 2019, we continued work on projects with the Premier Oil ("PMO") and Eni S.p.A. ("Eni").

Product Development

The development of our technology has been funded by capital we raised, by development engineering contracts we received starting in fiscal 1995 with agencies like the DOE, the U.S. Navy, the Department of Homeland Security, and revenue generating projects with MES, Premier Oil and Eni.

Through these historic projects, we also continued development of our PowerBuoy® technologies. We are continuing to focus on marketing and developing our PowerBuoy® products and services for use in autonomous power applications.

During the first nine months of fiscal 2019, we continued to focus on the commercialization of our PowerBuoy® technology, while expanding the application of our PB3 product in autonomous application markets. In March 2018, we entered into an agreement with Eni that provides for a minimum 24-month contract that includes a lease and associated project management. In June 2018, we entered into a contract with PMO for the lease of a PB3 PowerBuoy® to be deployed in one of PMO's offshore fields in the North Sea. In August 2018, we entered into an agreement with Enel Green Power S.p.A. to evaluate a PB3 PowerBuoy® deployment along the coast of Chile through a detailed feasibility study as an offshore autonomous platform hosting oceanographic sensor systems.

In November 2017 we completed the Phase I work under the contract with the U.S. Department of Defense Office of Naval Research ("ONR"), which focused on the initial concept design and development of a mass-on-spring PTO-based PowerBuoy®. We are currently waiting for ONR funding to be approved for the next phase. Working closely with potential customers, we also continued to analyze and further develop new applications for the PowerBuoy® including subsea well monitoring for oil and gas, Autonomous Underwater Vehicle ("AUV") charging, and independent telecommunications platforms.

In addition to the PB3 commercial product validation activities, a concerted effort has been underway which focuses on proactively implementing additional features driven by extensive and direct discussions with potential users, customers, marketing partners, and end users in our target markets. Such features include:

- The design, development and implementation of a versatile mooring interface that allows the PB3 to accommodate various types of mooring configurations depending on the specifics and the needs of the customer, eliminating the need for a redesign to the device.
- The design, development and implementation of a flexible power transmission system intended to support delivery of power and communication capabilities to customer payloads which are external to the PowerBuoy®, and which may reside in the water column or on the seabed.
- The design and development of a single point mooring solution that allows for quick deployment of the PowerBuoy®.

Additionally, and building upon our initial success in implementing an auto-ballast system in our PB3, we further enhanced this feature in order to achieve faster and more cost effective PB3 deployments and retrievals.

As previously stated, the PB3 has achieved commercial status through a series of design iterations which focused on improving its reliability and survivability in the ocean environment. Though the PB3 will continue to undergo further enhancements through customary product life cycle management, we believe the PB3 has achieved a maturity level for immediate commercial use. We believe that the PB3 will generate and store sufficient power to address various application requirements in our target markets. Our product development and engineering efforts are focused, in part, on increasing the energy output and efficiency of our PowerBuoys® and, if we are able to do so, we believe the PowerBuoy® would be useful for additional applications where cost savings and additional power are required by our potential customers. We continue to explore opportunities in these target markets. We believe that by demonstrating the capability of our PowerBuoy® in oil & gas and telecommunications applications, we can advance our technology and gain further adoption from our target markets. We continue to improve design and manufacturing to enhance our ability to improve customer value, displace incumbent solutions, and become the preferred power source for new and existing applications in our target markets.

We are utilizing our experience with multiple commercial PB3 deployments globally to continually improve our product so that we have higher energy efficiency, additional mooring capability, platform flexibility and high reliability. For example, the redesigned PB3 leverages our knowledge base from past designs to incorporate new design features which we believe will improve its reliability and efficiency.

In November 2018, the Company announced several new product offerings including subsea battery systems, hybrid PowerBuoy® and support services.

- *Subsea battery systems* – The Company is in the process of creating a sea floor energy storage solution for remote offshore operations. These subsea battery systems will contain lithium ion batteries, which provide higher power density, to supply power that can enable subsea equipment, sensors, communications and autonomous underwater vehicles (AUV) and electric remotely operated vehicles (eROV) recharge. The Company’s PB3 PowerBuoy® is complimentary to subsea battery systems by providing a means for recharging during longer term deployments, or the subsea battery systems can be used independently for shorter term deployments. Ideal for many remote offshore customer applications, these subsea battery systems are anticipated to be high performance, cost-efficient, and quickly deployable. Given the Company’s expertise in offshore energy storage systems from existing PB3 PowerBuoy® technology, the subsea battery solutions will provide an opportunity for the Company to differentiate through technical, cost and delivery leadership.
- *Hybrid PowerBuoy®* - The Company is in the process of creating a hybrid PowerBuoy® that will be a smaller liquid-fueled surface buoy, compared to the wave power generating PB3 PowerBuoy®, with significant energy storage and capable of providing reliable power in remote offshore locations. This product is to be highly complementary to the PB3 PowerBuoy® by providing the Company the opportunity to address a broader spectrum of customer deployment needs, with the potential for greater Company integration within each customer project. It is primarily intended for shorter term deployment applications such as eROV and AUV inspections and short-term maintenance, topside surveillance and communications, and subsea equipment power purposes. The hybrid PowerBuoy® is anticipated to be a light weight and quickly deployable option specially designed as a cost-effective solution. The design is also anticipated to have a high payload capacity for communications and surveillance, with the capability of being tethered to subsea payloads and battery packs, and/or PB3 PowerBuoy®, or with a conventional anchor mooring system. The Company intends to design the hybrid PowerBuoy® to outperform traditional diesel buoys, which we believe have more frequent service and refueling intervals. We believe the hybrid PowerBuoy® will be able to operate for years without service using environmentally safer and more robust fuels, while operating in a wider temperature range than diesel buoys.
- *Support services* – The Company offers customers a comprehensive range of support services that meet their specific needs. These support services include innovation services, remote monitoring, extended service agreements, customization and pre-packaged payload options, engineering-design-testing services, mooring design, and marine services. These same support services will be extended to the new subsea battery solution and hybrid PowerBuoy® products.

Commercial Activities

We continue to seek new strategic relationships, and further develop our existing partnerships, with other companies that have developed or are developing in-ocean applications requiring a persistent source of power that is also capable of real time data collection, processing and communication, to address potential customer needs.

- In February 2019, we entered into contract with the U.S. Navy to carry out the first phase of a project to design and develop a buoy mooring system which incorporates fiber optics for the transmission of subsea sensor data to airplanes, ships, and satellites.
- In January 2019 we entered into a Joint System Solution Development and Marketing Agreement with Saab Seaeye Ltd, the world’s largest manufacturer of electric underwater robotic systems. The agreement anticipates a preliminary focus on AUV and eROV charging and communications systems.
- In December 2018 we signed a letter of intent to enter into a non-exclusive long-term supply agreement with NEC Energy Solutions (“NEC ES”), a pioneer and global leader in utility scale energy storage. Under the terms of the supply agreement, NEC ES will be a supplier of lithium ion batteries for our subsea battery systems.
- In August 2018 we entered into an agreement with Enel Green Power S.p.A. to evaluate a PB3 PowerBuoy® deployment along the coast of Chile through a detailed feasibility study of the PowerBuoy® as an offshore autonomous platform hosting oceanographic sensor systems.
- In June 2018, we entered into a contract with Premier Oil (“PMO”), an international oil and gas company, for the lease (for at least three months and a maximum of twelve months) of a PB3 PowerBuoy® to be deployed in one of PMO’s offshore fields in the North Sea.

- In March 2018, we entered into an agreement with Eni that provides for a minimum 24-month contract that includes an 18-month PB3 PowerBuoy® lease and associated project management.
- In December 2016, we entered into a Joint Marketing Agreement with Sonalysts, Inc. to explore and pursue mutual opportunities in defense and oil and gas applications. The agreement includes the exploration and assessment of the use of the PB3 as a platform to provide power and communications for these markets.
- In September 2016, we entered into a contract with ONR totaling approximately \$0.2 million to carry out the first phase of a project which focuses on the initial concept design and development of a mass-on-spring PTO-based PowerBuoy® leveraging a number of OPT patents covering such a technology. If successful, this device is expected to be able to respond to the unique set of requirements expected in various military marine applications. We completed the Phase 2 BASE Effort work under the contract which focused on the initial concept design and development of a mass-on-spring PTO-based PowerBuoy®. The Company is waiting for ONR funding of Phase 2, Option 1 to be approved.
- We have worked with MES (from 2010 to present) to develop several PowerBuoy® projects in Japan. Historically, our agreements with MES have provided for MES to reimburse us for specific costs associated with research, development and deployment of our PowerBuoy® product. In March 2016, we entered into a letter of intent with MES to conduct funded pre-work tasks and to negotiate a definitive agreement that would allow for the lease of the PB3 PowerBuoy® for a project off the coast of Kozushima Island, Japan following a planned stage gate review. Stage-gate reviews are used in product development to gather key information needed to advance the project to the next gate or decision point. This process is a generally accepted industry practice and has been utilized by other customers such as the DOE. A final contract totaling nearly \$1.0 million was negotiated and finalized with MES in May 2016 that included engineering and logistics support, and the lease of our PB3 PowerBuoy® for a 7-month period, its ocean deployment, associated data collection and monitoring of its performance. Upon the completion of the engineering pre-work and a successful stage gate review, the PB3 was shipped to Japan and was deployed off Kozushima Island from April to September 2017. The MES lease concluded in September 2017 and the PB3 was shipped back to New Jersey.
- In May 2016, we entered into a Memorandum of Agreement (“MOA”) with Wildlife Conservation Society (“WCS”) to explore the use of our PowerBuoys® in conjunction with ocean life monitoring sensors to collect ocean mammal migration data. The MOA includes the exploration and assessment of the use of the PB3 as an integration platform to provide power and communications to sensors that monitor marine life migrations. An initial effort consisting of a battery powered sensor mounted to the PB3 was deployed off the coast of New Jersey which sought to establish a baseline acoustic survey. The deployment proceeded for approximately three months and met all project objectives.
- In 2016, we entered into a Cooperative Research and Development Agreement (“CRADA”) with the National Data Buoy Center (“NDBC”) to conduct ocean demonstrations of its innovative Self-Contained Ocean Observing Payload (“SCOOP”) monitoring system integrated into our PB3 PowerBuoy®. NDBC operates a large network of buoys and stations which provide critical meteorological and oceanic observations that are utilized by government, industry, and academia throughout the world. Under the CRADA, an initial ocean demonstration was to be conducted off the coast of New Jersey. We integrated the SCOOP onto our PB3 PowerBuoy® and in June 2016 we deployed the system off the coast of New Jersey. Site-specific measurements of meteorological and ocean conditions, as well as system performance and maintenance data collection, were carried out. The SCOOP was powered by the PB3 and provided metocean data to OPT and to NDBC. The deployment proceeded for approximately three months and met all project objectives.

Capital Raises

On May 2, 2017, the Company sold 6,192,750 shares of common stock at a price of \$1.30 per share, which includes the sale of 807,750 shares of the Company’s common stock sold by the Company pursuant to the exercise, in full, of the over-allotment option by the underwriters in a public offering. The net proceeds to the Company from the offering were approximately \$7.2 million, after deducting underwriter fees and offering expenses payable by the Company.

On October 23, 2017, the Company sold 5,739,437 shares of common stock at a price of \$1.42 per share in a best efforts public offering. The net proceeds to the Company from the offering were approximately \$7.4 million, after deducting placement fees and offering expenses payable by the Company.

On August 13, 2018, the Company entered into a common stock purchase agreement with Aspire Capital Fund, LLC (“Aspire Capital”) which provides that, subject to certain terms, conditions and limitations, Aspire Capital is committed to purchase up to an aggregate of \$10.0 million of shares of the Company’s common stock over a 30-month period. In consideration for entering into the agreement, the Company issued to Aspire Capital 428,571 shares of our common stock as a commitment fee. As of January 31, 2019, the Company has sold 800,000 shares of common stock with an aggregate market value of \$301,000 at an average price of \$0.38 per share pursuant to this common stock purchase agreement.

On January 7, 2019, the Company entered into an At the Market Offering Agreement (“2019 ATM Facility”) with A.G.P./Alliance Global Partners (“AGP”), under which the Company may issue and sell to or through A.G.P./Alliance Global Partners, acting as agent and/or principal, shares of the Company’s common stock having an aggregate offering price of up to \$25 million. Under the 2019 ATM Facility, during the month of January 2019, the Company issued and sold 819,538 shares of its Common Stock with an aggregate market value of \$273,735 at an average price of \$0.33 per share and paid AGP a sales commission of approximately \$8,900 related to those shares.

The sale of additional equity or convertible securities could result in dilution to our stockholders. If additional funds are raised through the issuance of debt securities or preferred stock, these securities could have rights senior to those associated with our common stock and could contain covenants that would restrict our operations. We do not have any committed sources of debt or equity financing and we cannot assure you that financing will be available in amounts or on terms acceptable to us when needed, or at all. If we are unable to obtain required financing when needed, we may be required to reduce the scope of our operations, including our planned product development and marketing efforts, which could materially and adversely affect our financial condition and operating results. If we are unable to secure additional financing, we may be forced to cease our operations.

Backlog

As of January 31, 2019, the Company’s negotiated backlog was \$0.9 million. As of April 30, 2018, negotiated backlog was \$0.7 million. Our backlog can include unfilled firm orders for our products and services from commercial or governmental customers. If any of our contracts were to be terminated, our backlog would be reduced by the expected value of the remaining terms of such contract.

The amount of contract backlog is not necessarily indicative of future revenue because modifications to, or terminations of present contracts and production delays can provide additional revenue or reduce anticipated revenue. A substantial portion of our revenue has been for the support of our product development efforts. These revenues are recognized using the percentage-of-completion method, and changes in estimates from time to time may have a significant effect on revenue and backlog. Our backlog is also typically subject to large variations from time to time due to the timing of new awards.

Business Strategy

We continue to commercialize our PB3 PowerBuoy® for use in remote offshore power and real-time data communications applications, and in order to achieve this goal, we are pursuing the following business objectives:

- *Sell and/or lease PB3 PowerBuoy®.* We believe our PB3 PowerBuoy® is well suited for many autonomous (non-grid connected) offshore applications. We have observed potential market demand for both PowerBuoy® sales and leases within our selected markets, and we intend to sell and lease PB3 PowerBuoy® to these markets. We believe customer inquiries regarding applications of the PowerBuoy® have increased as a result of our deployments, recent contract awards and increased end user awareness of our PowerBuoy® solutions. Additionally, we intend to provide services associated with product sales and leases such as extended maintenance agreements, remote monitoring and diagnostics, data services and storage, application engineering, planning, training, logistics and security support required throughout the PB3 PowerBuoy® life-cycle. We continue to increase our commercial capabilities through new hires in marketing, sales, and application support, and through engagement of expert market consultants in geographies, markets and applications.
- *Concentrate sales and marketing efforts in specific geographic markets.* We are currently focusing our marketing efforts in North America and Europe and a more focused effort on selected parts of Asia, Africa and South America. We believe that each of these areas has sizable end market opportunities, political and economic stability, and high levels of industrialization and economic development.
- *Expand our relationships in key market areas through strategic partnerships and collaborations.* We believe that strategic partners are an important part of commercializing a new product. Partnerships and collaborations can be used to improve the development of overall integrated solutions, create new market channels, expand commercial know-how and geographic footprint, and bolster our product delivery capabilities.

- *Commercial collaborations.* We believe that an important element of our business strategy is to collaborate with other organizations to leverage our combined expertise, market presence and access, and core competencies across key markets. We have formed such a relationship with several well-known groups, and we continue to seek other opportunities to collaborate with application experts from within our selected markets.
- *Outsourcing of fabrication, deployment and service support.* We outsource all fabrication, anchoring, mooring, cabling supply, and in most cases deployment of our PowerBuoy® in order to minimize our capital requirements as we scale our business and focus on commercialization. Our PTO is a proprietary subsystem and is assembled and tested at our facility. We believe this distributed manufacturing and assembly approach enables us to focus on our core competencies ensure a cost-effective product by leveraging a larger more established supply base. We also continue to seek strategic partnerships with regards to servicing of our PB3 PowerBuoy®, which complements our commercialization strategy.
- *PB3 cost reduction and PowerBuoy® product development.* Our engineering efforts are focused on customer application development for PB3 sales and leases, cost reduction of our PB3 PowerBuoy® and improving the energy output, reliability, extending maintenance intervals and expected operating life of our PowerBuoy®. We continue to optimize manufacturability of our designs with a focus on cost competitiveness and reduction, and we believe that we will be able to address new and different applications by developing new products that increase energy output and demonstrate a high reliability our customers expect.
- *New product offerings.* We are currently in the process of developing subsea battery solutions and a hybrid PowerBuoy®. The subsea battery solution will use commercially proven lithium ion batteries to supply power to subsea equipment, sensors, communications and autonomous underwater vehicles (AUV) and electric remotely operated vehicles (eROV) recharge. The hybrid PowerBuoy® will be a smaller liquid-fueled surface buoy, with significant energy storage and capable of providing reliable power in remote offshore locations. The Company anticipates marketing and quoting to potential customers around the world as early as the first half of calendar year 2019

Going Concern

The consolidated financial statements have been prepared assuming the Company will continue as a going concern. The Company has experienced substantial and recurring losses from operations, which losses have caused an accumulated deficit of \$207.3 million at January 31, 2019. Based on the Company's cash, cash equivalents and restricted cash balances as of January 31, 2019, the Company believes that it will be able to finance its capital requirements and operations into the quarter ending April 30, 2019. In August 2018, the Company entered into a common stock purchase agreement with Aspire Capital Fund, LLC. As of January 31, 2019, the Company has sold 800,000 shares of common stock with an aggregate market value of \$301,000 at an average price of \$0.38 per share pursuant to this common stock purchase agreement. In January 2019, the Company entered into an At the Market Offering Agreement with A.G.P./Alliance Global Partners. Under the 2019 ATM Facility, during the month of January 2019, the Company issued and sold 819,538 shares of its common stock with an aggregate market value of \$273,735 at an average price of \$0.33 per share and paid AGP a sales commission of approximately \$8,900 related to those shares. Among other things, the Company is currently evaluating a variety of different financing alternatives and we expect to continue to fund our business with sales of our securities and through generating revenue with customers.

The report of our independent registered public accounting firm on our consolidated financial statements filed with our Annual Report on Form 10-K for the year ended April 30, 2018, contains an explanatory paragraph regarding our ability to continue as a going concern, based on, among other factors, that our ability to continue as a going concern is dependent upon our ability to raise additional external capital and increase revenues. These factors, among others, raise substantial doubt about our ability to continue as a going concern. Our consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty. We cannot assure you that we will be successful in our efforts to generate revenues, become profitable, raise additional outside capital or to continue as a going concern. If we are not successful in our efforts to raise additional capital sufficient to support our operations, we would be forced to cease operations, in which event investors would lose their entire investment in our company.

Critical Accounting Policies and Estimates

To understand our financial statements, it is important to understand our critical accounting policies and estimates. We prepare our financial statements in accordance with generally accepted accounting principles, or "GAAP". The preparation of financial statements also requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, costs and expenses and related disclosures. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results could differ significantly from the estimates made by our management. To the extent that there are differences between our estimates and actual results, our future financial statement presentation, financial condition, results of operations and cash flows will be affected. We believe that the accounting policies are critical to understanding our historical and future performance, as these policies relate to the more significant areas involving management's judgments and estimates.

For a discussion of our critical accounting estimates, see the section entitled Item 7.- “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report on Form 10-K for the year ended April 30, 2018. There were no material changes in our critical accounting estimates or accounting policies during the nine months ended January 31, 2019.

Recently Issued Accounting Standards

In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2014-09, “*Revenue from Contracts with Customers (Topic 606)*.” ASU 2014-09 outlines a new, single comprehensive model for entities to use in accounting for revenue arising from contracts with customers and supersedes most current revenue recognition guidance, including industry-specific guidance. This new revenue recognition model provides a five-step analysis in determining when and how revenue is recognized. The new model will require revenue recognition to depict the transfer of promised goods or services to customers in an amount that reflects the consideration a company expects to receive in exchange for those goods or services. The FASB subsequently issued additional clarifying standards to address issues arising from implementation of the new revenue standard, including a one-year deferral of the effective date for the new revenue standard. Public companies should now apply the guidance in ASU 2014-09 to annual reporting periods beginning after December 15, 2017 and interim periods within those annual periods. Earlier application is permitted only as of annual reporting periods beginning after December 15, 2016, including interim periods within that annual period. As such, the Company is required to adopt this standard effective in fiscal 2019, which begins May 1, 2018. Companies may use either a full retrospective or a modified retrospective approach to adopt ASU 2014-09. Under the full retrospective method, the standard would be applied to each prior reporting period presented and the cumulative effect of applying the standard would be recognized at the earliest period shown. Under the modified retrospective method, the cumulative effect of applying the standard would be recognized at the date of application. Effective May 1, 2018, the Company adopted the requirements of ASU 2014-09 using the modified retrospective method. As a practical expedient, the Company adopted the new standard only for existing contracts as of May 1, 2018, the date of adoption. Any contracts that had expired prior to May 1, 2018 were not evaluated against the new standard. The Company adopted ASU 2014-09 and the adoption did not have a material impact on the Company’s consolidated financial position, results of operations or cash flows.

In February 2016, the FASB issued ASU No. 2016-02, “*Leases (Topic 842)*.” The new standard establishes a right-of-use (ROU) model that requires a lessee to record a ROU asset and a lease liability on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. ASU 2016-02 is effective for annual periods beginning after December 15, 2018, including interim periods within those annual periods, with early adoption permitted. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available. In July 2018, the FASB issued ASU No. 2018-11, “*Leases (Topic 842): Targeted Improvements*.” ASU 2018-11 provides companies another transition method in addition to the existing transition method by allowing entities to initially apply the new leases standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. The consideration in the contract is allocated to the lease and non-lease components on a relative standalone price basis (for lessees) or in accordance with the allocation guidance in the new revenue standard (for lessors). ASU 2018-11 also provides lessees with a practical expedient, by class of underlying asset, to not separate non-lease components from the associated lease component. If a lessee makes that accounting policy election, it is required to account for the non-lease components together with the associated lease component as a single lease component and to provide certain disclosures. Lessors are not afforded a similar practical expedient. In December 2018, the FASB issued ASU No. 2018-20, “*Leases (Topic 842): Narrow-Scope Improvements for Lessors*.” ASU 2018-20 provides further guidance to lessors on the following topics; sales taxes and other similar taxes collected from lessees, certain lessor costs and recognition of variable payments for contracts with lease and non-lease components. The amendments in this Update permit lessors, as an accounting policy election, to not evaluate whether certain sales taxes and other similar taxes are lessor costs (as described in paragraph 842-10-15-30(b)) or lessee costs. Instead, those lessors will account for those costs as if they are lessee costs. The amendments in this Update related to certain lessor costs require lessors to exclude from variable payments, and therefore revenue, lessor costs paid by lessees directly to third parties. The amendments in this Update related to recognizing variable payments for contracts with lease and non-lease components require lessors to *allocate* (rather than *recognize* as currently required) certain variable payments to the lease and non-lease components when the changes in facts and circumstances on which the variable payment is based occur. The Company is evaluating the effect ASU 2016-02 will have on its consolidated financial statements and disclosures and has not yet determined the effect of the standard on its ongoing financial reporting at this time.

In August 2016, the FASB issued ASU 2016-15, “*Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments*”, providing additional guidance on eight specific cash flow classification issues. The goal of the ASU is to reduce diversity in practice of classifying certain items. The amendments in the ASU are effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years and early adoption is permitted. The Company has evaluated the effect ASU 2016-15 will have on its consolidated financial statements and disclosures and has determined the standard will have no impact on its ongoing financial reporting at this time.

In May 2017, the FASB issued ASU 2017-09, “*Compensation — Stock Compensation (ASC Topic 718): Scope of Modification Accounting*,” which clarifies when changes to the terms or conditions of a share-based payment award must be accounted for as a modification. Entities should apply the modification accounting guidance if the value, vesting conditions or classification of the award changes. The amendments in the ASU are effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years and early adoption is permitted. The Company has evaluated the effect ASU 2017-09 will have on its consolidated financial statements and disclosures and has determined the standard will have no impact on its ongoing financial reporting at this time.

In August 2018, the FASB issued ASU No. 2018-13, “*Fair Value Measurement (Topic 820)*.” The ASU modifies, removes and adds several disclosure requirements on fair value measurements in Topic 820, Fair Value Measurement. The ASU 2018-13 is effective for all entities for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. The amendments on changes in unrealized gains and losses, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and the narrative description of measurement uncertainty should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption. All other amendments should be applied retrospectively to all periods presented upon their effective date. Early adoption is permitted upon issuance of ASU 2018-13. An entity is permitted to early adopt any removed or modified disclosures upon issuance of ASU 2018-13 and delay adoption of the additional disclosures until their effective date. The Company is evaluating the effect ASU 2018-13 will have on its consolidated financial statements and disclosures and has not yet determined the effect of the standard on its ongoing financial reporting at this time.

In August 2018, the FASB issued ASU No. 2018-15, “*Intangibles — Goodwill and Other — Internal-Use Software (Subtopic 350-40)*.” The ASU provides for the recognition of an intangible asset for the costs of internal-use software licenses included in a cloud computing arrangement. Costs of arrangements that do not include a software license should be accounted for as a service contract and expensed as incurred. This ASU is effective for fiscal years beginning after December 15, 2019, with early adoption permitted. The ASU permits two methods of adoption: prospectively to all implementation costs incurred after the date of adoption, or retrospectively to each prior reporting period presented. The Company is evaluating the effect ASU 2018-15 will have on its consolidated financial statements and disclosures and has not yet determined the effect of the standard on its ongoing financial reporting at this time.

Financial Operations Overview

The following describes certain line items in our statement of operations and some of the factors that affect our operating results.

Revenues

A performance obligation is the unit of account for revenue recognition. The company assesses the goods or services promised in a contract with a customer and identifies as a performance obligation either: a) a good or service (or a bundle of goods or services) that is distinct; or b) a series of distinct goods or services that are substantially the same and that have the same pattern of transfer to the customer. A contract may contain a single or multiple performance obligations. For contracts with multiple performance obligations, the Company allocates the contracted transaction price to each performance obligation based upon the relative standalone selling price, which represents the price the Company would sell a promised good or service separately to a customer. The Company determines the standalone selling price based upon the facts and circumstances of each obligated good or service. The majority of the Company’s contracts have no observable standalone selling price since the associated products and services are customized to customer specifications. As such, the standalone selling price generally reflects the Company’s forecast of the total cost to satisfy the performance obligation plus an appropriate profit margin.

The nature of the Company’s contracts may give rise to several types of variable consideration, including claims and unpriced change orders; awards and incentive fees; and liquidated damages and penalties. Variable consideration can also arise from modifications to the scope of services. Variable consideration is included in the transaction price to the extent it is probable that a significant reversal of cumulative revenue recognized will not occur once the uncertainty associated with the variable consideration is resolved. Our estimates of variable consideration and determination of whether to include such amounts in the transaction price are based largely on our assessment of legal enforceability, performance and any other information (historical, current, and forecasted) that is reasonably available to us.

The Company recognizes revenue when or as it satisfies a performance obligation by transferring a good or service to a customer, either (1) at a point in time or (2) over time. A good or service is transferred when or as the customer obtains control of it. The evaluation of whether control of each performance obligation is transferred at a point in time or over time is made at contract inception. Input measures such as costs incurred or time elapsed are utilized to assess progress against specific contractual performance obligations for the Company's services. The selection of the method to measure progress towards completion requires judgment and is based on the nature of the services to be provided. For the Company, the input method using costs incurred or time elapsed best represents the measure of progress against the performance obligations incorporated within the contractual agreements. When the Company's estimate of total costs to be incurred to satisfy the performance obligations exceed revenue, the Company recognizes the loss immediately.

The Company classifies leases as either operating or capital lease arrangements in accordance with the authoritative accounting guidance contained within Accounting Standards Codification ("ASC") Topic 840, "Leases". At inception of the contract, the Company evaluates the lease against the four lease classification criteria within ASC Topic 840. In general, if one of the four criteria is met, then the lease is accounted for as a capital lease. All others are treated as an operating lease. For operating leases, lessee payments are recorded to revenue on a straight-line basis over the term of the lease.

The Company's contracts are either cost plus or fixed price contracts. Under cost plus contracts, customers are billed for actual expenses incurred plus an agreed-upon fee. Under cost plus contracts, a profit or loss on a project is recognized depending on whether actual costs are more or less than the agreed upon amount.

The Company has two types of fixed price contracts, firm fixed price and cost-sharing. Under firm fixed price contracts, the Company receives an agreed-upon amount for providing products and services specified in the contract, a profit or loss is recognized depending on whether actual costs are more or less than the agreed upon amount. Under cost-sharing contracts, the fixed amount agreed upon with the customer is only intended to fund a portion of the costs on a specific project. Under cost sharing contracts, an amount corresponding to the revenue is recorded in cost of revenues, resulting in gross profit on these contracts of zero. The Company's share of the costs is recorded as product development expense.

The following table provides information regarding the breakdown of our revenues by customer for the three and nine months ended January 31, 2019 and 2018.

	Three months ended January 31,		Nine months ended January 31,	
	2019	2018	2019	2018
	(in thousands)			
Enel Green Power	\$ -	\$ -	\$ 23	\$ -
Eni S.p.A.	141	-	264	-
Mitsui Engineering & Shipbuilding	-	-	-	218
Premier Oil UK Limited	127	-	153	-
Office of Naval Research	-	-	-	71
	<u>\$ 268</u>	<u>\$ -</u>	<u>\$ 440</u>	<u>\$ 289</u>

We currently focus our sales and marketing efforts on North America, Europe, Australia, Asia and South America. The following table shows the percentage of our revenues by geographical location of our customers for the nine months ended January 31, 2019 and 2018.

Customer Location	Nine months ended January 31,	
	2019	2018
Asia and Australia	0%	75%
Europe	100%	0%
United States	0%	25%
	<u>100%</u>	<u>100%</u>

Cost of revenues

Our cost of revenues consists primarily of incurred material, labor and manufacturing overhead expenses, such as engineering expense, equipment depreciation and maintenance and facility related expenses, and includes the cost of PowerBuoy® parts and services supplied by third-party suppliers. Cost of revenues also includes PowerBuoy® system delivery and deployment expenses and may include anticipated losses at completion on certain contracts.

Our ability to generate a gross profit will depend on the nature of future contracts, our success at generating revenues through sales or leases of our PowerBuoy® systems, the nature of our contracts generating revenues to fund our product development efforts, and our ability to manage costs incurred on fixed price commercial contracts.

Engineering and product development costs

Our engineering and product development costs consist of salaries and other personnel-related costs and the costs of products, materials and outside services used in our product development and unfunded research activities. Our product development costs relate primarily to our efforts to increase the power output and reliability of our PowerBuoy® system, and to the development of new products, product applications and complementary technologies. We expense all of our engineering and product development costs as incurred.

Selling, general and administrative costs

Our selling, general and administrative costs consist primarily of professional fees, salaries and other personnel-related costs for employees and consultants engaged in sales and marketing and support of our PowerBuoy® systems and costs for executive, accounting and administrative personnel, professional fees and other general corporate expenses.

Fair Value of Financial Instruments

The fair value of our financial instruments reflects the amounts that would be paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). The fair value of our warrant liabilities is subject to remeasurement each financial statement reporting period, as such, changes in this fair value are reflected in the statement of operations.

Our financial instruments not required to be adjusted to fair value on a recurring basis consist principally of cash and restricted cash, accounts receivable, accounts payable, and accrued expenses. We believe the carrying amount of cash and cash equivalents, accounts receivable, accounts payable and accrued expenses approximate fair value due to their relatively short maturities.

Interest income, net

Interest income, net consists of interest received on cash and cash equivalents, investments in commercial bank-issued certificates of deposit and US Treasury bills and notes and interest expense paid on certain obligations to third parties.

Foreign exchange gain (loss)

We transact business in various countries and have exposure to fluctuations in foreign currency exchange rates. Foreign exchange gains and losses arise in the translation of foreign-denominated assets and liabilities, which may result in realized and unrealized gains or losses from exchange rate fluctuations. Since we conduct our business in US dollars and our functional currency is the US dollar, our main foreign exchange exposure, if any, results from changes in the exchange rate between the US dollar and the British pound sterling, the Euro and the Australian dollar. Due to the macroeconomic pressures in certain European countries, foreign exchange rates may become more volatile in the future.

We may invest our foreign cash reserves in certificates of deposit and we maintain cash accounts that are denominated in British pounds sterling, Euros and Australian dollars. These foreign-denominated accounts had a balance of \$0.8 million as of January 31, 2019 and \$1.1 million as of January 31, 2018, compared to our total cash, cash equivalents and restricted cash balances of \$2.7 million as of January 31, 2019 and \$14.9 million as of January 31, 2018. These foreign currency balances are translated at each month and to our functional currency, the US dollar, and any resulting gain or loss is recognized in our results of operations.

In addition, a portion of our operations is conducted through our subsidiaries in countries other than the United States, specifically Ocean Power Technologies Ltd. in the United Kingdom, the functional currency of which is the British pound sterling, and Ocean Power Technologies (Australasia) Pty Ltd. in Australia, the functional currency of which is the Australian dollar. Both of these subsidiaries have foreign exchange exposure that results from changes in the exchange rate between their functional currency and other foreign currencies in which they conduct business.

We currently do not hedge our exchange rate exposure. However, we assess the anticipated foreign currency working capital requirements and capital asset acquisitions of our foreign operations and attempt to maintain a portion of our cash, cash equivalents and marketable securities denominated in foreign currencies sufficient to satisfy these anticipated requirements. We also assess the need and cost to utilize financial instruments to hedge currency exposures on an ongoing basis and may hedge against exchange rate exposure in the future.

Results of Operations

This section should be read in conjunction with the discussion below under “Liquidity and Capital Resources.”

Three months ended January 31, 2019 compared to the three months ended January 31, 2018

The following table contains selected statement of operations information, which serves as the basis of the discussion of our results of operations for the three months ended January 31, 2019 and 2018.

	Three months ended January 31,		% change 2019 period to 2018 period
	2019	2018	
	(in thousands)		
Revenues	\$ 268	\$ -	100%
Cost of revenues	400	-	100%
Gross loss	(132)	-	
Operating expenses:			
Engineering and product development costs	1,382	1,318	5%
Selling, general and administrative costs	2,008	1,576	27%
Total operating expenses	3,390	2,894	
Operating loss	(3,522)	(2,894)	
Gain due to the change in fair value of warrant liabilities	47	14	236%
Interest income, net	2	42	-95%
Other expense	-	4	-100%
Foreign exchange gain/(loss)	12	52	-77%
Loss before income taxes	(3,461)	(2,782)	
Income tax benefit	850	1,119	-24%
Net loss	\$ (2,611)	\$ (1,663)	57%

Revenues

Revenues were \$0.3 million in the three months ended January 31, 2019 an increase \$0.3 million as compared to the three months ended January 31, 2018. The increase in revenue was the result of the contracts with Eni and PMO.

Cost of revenues

Cost of revenues increased \$0.4 million compared to the three months ended January 31, 2018. The increase in cost of revenues is due to higher spending and material costs on new customer revenue generating projects compared to the same period in fiscal 2018. During fiscal 2018, all of the projects were completed in the first half of the year.

Engineering and product development costs

Product development costs for the three months ended January 31, 2019 and 2018 were \$1.4 million and \$1.3 million, respectively. The increase of \$0.1 million is due to higher spending on new product development as compared to the same period in fiscal 2018.

Selling, general and administrative costs

Selling, general and administrative costs for the three months ended January 31, 2019 and 2018 were \$2.0 million and \$1.6 million, respectively. The increase \$0.4 million was mostly due to higher personnel costs, investor relations, and professional fees as compared to the same period in fiscal 2018.

Gain due to the change in fair value of warrant liabilities

The change in fair value of warrant liabilities during the three months ended January 31, 2019 was an unrealized gain of \$47,000 versus an unrealized gain of \$14,000 for the three months ended January 31, 2018. The change between periods is due primarily to a lower stock price during the three months ended January 31, 2019.

Interest income, net

Interest income, net during the three months ended January 31, 2019 was \$2,000, compares to \$42,000 during the three months ended January 31, 2018. The decrease of \$40,000 is due to lower cash balances in the three months ended January 31, 2019 as compared to the three months ended January 31, 2018.

Foreign exchange gain/(loss)

Foreign exchange gain during the three months ended January 31, 2019 was \$12,000 compared to a gain of \$52,000 during the three months ended January 31, 2018. The difference was attributable primarily to the relative change in value of the British pound sterling, Euro and Australian dollar compared to the US dollar during the two periods.

Income Tax Benefit

During the three months ended January 31, 2019, the Company recorded an income tax benefit of \$0.9 million representing the proceeds from the sale of \$9.1 million of New Jersey net operating loss carryforwards and research and development tax credits. During the three months ended January 31, 2018, the Company recorded an income tax benefit of \$1.1 million representing the proceeds from the sale of \$11.4 million of New Jersey net operating loss carryforwards and research and development tax credits.

Nine months ended January 31, 2019 compared to the nine months ended January 31, 2018

The following table contains selected statement of operations information, which serves as the basis of the discussion of our results of operations for the nine months ended January 31, 2019 and 2018.

	Nine months ended January 31,		% change 2019 period to 2018 period
	2019	2018	
	(in thousands)		
Revenues	\$ 440	\$ 289	52%
Cost of revenues	1,180	193	511%
Gross profit/(loss)	(740)	96	
Operating expenses:			
Engineering and product development costs	4,105	3,398	21%
Selling, general and administrative costs	5,909	4,964	19%
Total operating expenses	10,014	8,362	
Operating loss	(10,754)	(8,266)	
Gain due to the change in fair value of warrant liabilities	183	82	123%
Interest income, net	23	51	-55%
Other income	-	4	-100%
Foreign exchange gain/(loss)	(43)	107	-140%
Loss before income taxes	(10,591)	(8,022)	32%
Income tax benefit	850	1,119	-24%
Net loss	\$ (9,741)	\$ (6,903)	41%

Revenues

Revenues were \$0.4 million in the nine months ended January 31, 2019 as compared to \$0.3 million in the nine months ended January 31, 2018. The increase in revenue is due primarily to the mix in customer contracts. During the nine months ended January 31, 2019 revenues were derived from new projects with Eni, PMO and Enel whereas projects with MES and ONR were completed during the nine months ended January 31, 2018.

Cost of revenues

Cost of revenues of \$1.2 million for the nine months ended January 31, 2019 as compared to \$0.2 million in the nine months ended January 31, 2018. The increase of \$1.0 million in cost of revenues is mostly due to higher spending and material costs on new projects in fiscal 2019 as compared to the same period in the fiscal 2018. During fiscal 2018, all of projects were completed in the first half of the year and spending on new projects did not start until fourth quarter, 2018.

Engineering and product development costs

Product development costs for the nine months ended January 31, 2019 and 2018 were \$4.1 million and \$3.4 million, respectively. The increase of \$0.7 million is due to higher spending on new product development, buoy builds for future customer contracts and personnel costs as compared to the same period in the fiscal 2018.

Selling, general and administrative costs

Selling, general and administrative costs for the nine months ended January 31, 2019 and 2018 were \$5.9 million and \$5.0 million, respectively. The increase of \$0.9 million was mostly due to higher personnel costs of \$0.2 million, higher investor relations costs of \$0.4 million, higher professional fees of \$0.2 million and higher marketing expense of \$0.1 million as compared to the same period in the fiscal 2018.

Gain due to the change in fair value of warrant liabilities

The change in fair value of warrant liabilities during the nine months ended January 31, 2019 was an unrealized gain of \$183,000 versus an unrealized gain of \$82,000 for the nine months ended January 31, 2018. The change between periods is due to a lower stock price during the nine months ended January 31, 2019.

Interest income, net

Interest income, net during the nine months ended January 31, 2019 was \$23,000, as compared to \$51,000 during the nine months ended January 31, 2018. The decrease of \$28,000 is due to lower cash balances in the nine months ended January 31, 2019 as compared to the nine months ended January 31, 2018.

Foreign exchange gain/(loss)

Foreign exchange loss during the nine months ended January 31, 2019 was \$43,000 compared to a gain of \$107,000 during the nine months ended January 31, 2018. The difference was attributable primarily to the relative change in value of the British pound sterling, Euro and Australian dollar compared to the US dollar during the two periods.

Income Tax Benefit

During the nine months ended January 31, 2019, the Company recorded an income tax benefit of \$0.9 million representing the proceeds from the sale of \$9.1 million of New Jersey net operating loss carryforwards and research and development tax credits. During the nine months ended January 31, 2018, the Company recorded an income tax benefit of \$1.1 million representing the proceeds from the sale of \$11.4 million of New Jersey net operating loss carryforwards and research and development tax credits.

Liquidity and Capital Resources

Since our inception, the cash flows from customer revenues have not been sufficient to fund our operations and provide the capital resources for the planned growth of our business. For the two years ended April 30, 2018, our aggregate revenues were \$1.4 million, our aggregate net losses were \$19.6 million and our aggregate net cash used in operating activities was \$20.7 million. Refer to “Liquidity Outlook” below for additional information.

Net cash used in operating activities

Net cash flows used in operating activities during the nine months ended January 31, 2019 were \$9.9 million, an increase of \$1.7 million compared to \$8.2 million during the nine months ended January 31, 2018. The increase was primarily due to higher net loss of \$2.8 million and payment of deferred credits of \$0.6 million partly offset by other changes in operating assets and liabilities of \$1.7 million as compared to the same period in 2018.

Net cash used in investing activities

Net cash used in investing activities during the nine months ended January 31, 2019 was \$29,000, a decrease of \$0.5 million compared to net cash used by investing activities during the nine months ended January 31, 2018. The decrease in net cash used in investing activities was due to lower spending on the purchase of equipment and leasehold improvements.

Net cash used/provided by financing activities

Net cash provided by financing activities during the nine months ended January 31, 2019 was \$0.4 million compared to net cash provided by financing activities during the nine months ended January 31, 2018 of \$14.6 million. The nine months ended January 31, 2018 included proceeds from the issuance of common stock of \$14.6 million.

Effect of exchange rates on cash and cash equivalents

The effect of exchange rates on cash and cash equivalents was a decrease of \$58,000 in the nine months ended January 31, 2019 and an increase of \$143,000 in the nine months ended for January 31, 2018. The effect of exchange rates on cash and cash equivalents results primarily from gains or losses on consolidation of foreign subsidiaries and foreign denominated cash and cash equivalents.

Liquidity Outlook

Our financial statements have been prepared assuming we will continue as a going concern. We have experienced substantial and recurring losses from operations, which have contributed to an accumulated deficit of \$207.3 million at January 31, 2019. As of January 31, 2019, we had approximately \$2.7 million in cash, cash equivalents and restricted cash on hand. The Company generated revenues of \$0.4 and \$0.3 million during the nine months ended January 31, 2019 and 2018, respectively. Based on the Company's cash, cash equivalents and restricted cash balances as of January 31, 2019, the Company believes that it will be able to finance its capital requirements and operations into the quarter April 30, 2019. In August 2018, the Company entered into a common stock purchase agreement with Aspire Capital Fund, LLC. As of January 31, 2019, the Company has sold 800,000 shares of common stock with an aggregate market value of \$301,000 at an average price of \$0.38 per share pursuant to this common stock purchase agreement. In January 2019, the Company entered into an At the Market Offering Agreement with A.G.P./Alliance Global Partners. Under the 2019 ATM Facility, during the month of January 2019, the Company issued and sold 819,538 shares of its common stock with an aggregate market value of \$273,735 at an average price of \$0.33 per share and paid AGP a sales commission of approximately \$8,900 related to those shares. Among other things, the Company is currently evaluating a variety of different financing alternatives and we expect to continue to fund our business with sales of our securities and through generating revenue with customers. These conditions raise substantial doubt about our ability to continue as a going concern.

We expect to devote substantial resources to continue our development efforts for our PowerBuoys® and to expand our sales, marketing and manufacturing programs associated with the planned commercialization of the PowerBuoys®. Our future capital requirements will depend on a number of factors, including but not limited to:

- our ability to commercialize our PowerBuoys®, and achieve and sustain profitability;
- our continued development of our proprietary technologies, and expected continued use of cash from operating activities unless or until we achieve positive cash flow from the commercialization of our products and services;
- our ability to obtain additional funding, as and if needed which will be subject to a number of factors, including market conditions, and our operating performance;
- our estimates regarding expenses, future revenues and capital requirements;
- the adequacy of our cash balances and our need for additional financings;
- our ability to develop and manufacture a commercially viable PowerBuoy® product;
- our ability to successfully develop and market and develop new products, such as a hybrid PowerBuoy® or subsea battery solutions;
- that we will be successful in our efforts to commercialize our PowerBuoy® or the timetable upon which commercialization can be achieved, if at all;
- our ability to identify and penetrate markets for our PowerBuoys® and our wave energy technology;
- the reliability of our technology and our PowerBuoys®;
- the power output, survivability and reliability of our PowerBuoys®;
- our ability to implement our commercialization strategy as planned, or at all;
- our relationships with our strategic partners may not be successful and we may not be successful in establishing additional relationships;
- our ability to maintain the listing of our common stock on the NASDAQ Capital Market;
- our ability to raise capital through our current equity facilities;
- the impact of pending and threatened litigation on our business, financial condition and liquidity;
- changes in current legislation, regulations and economic conditions that affect the demand for renewable energy;
- our ability to compete effectively in our target markets;
- our limited operating history and history of operating losses;
- our sales and marketing capabilities and strategy in the United States and internationally; and
- our ability to protect our intellectual property portfolio.

Our business is capital intensive and to date, we have been funding our business principally through sales of our securities, and we expect to continue to fund our business with sales of our securities and, to a limited extent, with our revenues until, if ever, we generate sufficient cash flow to internally fund our business. This is largely a result of the high product development costs associated with our product development. We anticipate that our operating expenses will be approximately \$14.5 million in fiscal 2019 including product development spending of more than \$6.3 million. We may choose to reduce our operating expenses through personnel reductions, and reductions in our research and development and other operating costs during the remainder of fiscal year 2019, if we are not successful in our efforts to raise additional capital. We cannot assure you that we will be able to increase our revenues and cash flow to a level which would support our operations and provide sufficient funds to pay our obligations for the foreseeable future. Further, we cannot assure you that we will be able to secure additional financing or raise additional capital or, if we are successful in our efforts to raise additional capital, of the terms and conditions upon which any such financing would be extended. If we are unable to raise additional capital when needed or generate positive cash flow, it is unlikely that we will be able to continue as a going concern. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

On August 9, 2018, the Company received a notification from the NASDAQ Stock Market (the “NASDAQ”) indicating that the minimum bid price of the Company’s common stock has been below \$1.00 per share for 30 consecutive business days and as a result, the Company is not in compliance with the minimum bid price requirement for continued listing. The NASDAQ notice has no immediate effect on the listing or trading of the Company’s common stock. Under the NASDAQ Listing Rules, the Company has a grace period of 180 calendar days, or until February 5, 2019, in which to regain compliance with the minimum bid price rule. To regain compliance, the closing bid price of the Company’s common stock must meet or exceed \$1.00 per share for a minimum of ten consecutive business days during this grace period.

On February 11, 2019, the Company received another written notice from the Listing Qualifications department of NASDAQ notifying the Company that it had not regained compliance with the minimum bid price requirement and that the Company’s stockholders’ equity as reported in the Company’s Quarterly Report on Form 10-Q for the quarter ended October 31, 2018 does not qualify the Company for an additional 180 calendar day extension period for compliance. On February 19, 2019, the Company submitted a letter to appeal the determination to a Hearings Panel (the “Panel”), pursuant to the procedures set forth in the NASDAQ Listing Rule 5800 Series. Such hearing request will stay the suspension of the Company’s securities pending the Panel’s decision, during which time the Company’s common stock will continue to be listed on NASDAQ, and the Company’s common stock will continue to trade under the symbol “OPTT”. The Company’s receipt of the notice does not affect the Company’s business, operations or reporting requirements with the SEC.

At the special meeting of stockholders of Ocean Power Technologies, Inc. on March 8, 2019, our stockholders approved a proposal to amend our Certificate of Incorporation to effect a reverse split of our common stock, par value \$0.001 (“common stock”), at a ratio to be determined by the Company’s Board of Directors within a specific range and a reduction in the authorized number of shares of our common stock. After the special meeting of stockholders, the Company’s Board of Directors convened and decided to initiate the reverse split, chose a ratio, and direct the Company’s management to take the necessary steps to effectuate the reverse split as soon as possible. The Company plans to file a Certificate of Amendment to our Certificate of Incorporation to affect a one-for-twenty reverse stock split of our common stock (the “Reverse Stock Split”). As of the effective date of the Reverse Stock Split, every twenty shares of issued and outstanding common stock will be combined into one issued and outstanding share of common stock, without any change in the par value per share. Any fractional shares in connection with the Reverse Stock Split will be rounded up to the nearest whole share and no cash payments will be made by the Company to stockholders in lieu of fractional shares.

If our common stock is delisted from NASDAQ, our ability to raise capital through public offerings of our securities and to finance our operations could be adversely affected. See additional risk factors under “Part II, Item 1A – Risk Factors”. We also believe that delisting would likely result in decreased liquidity and/or increased volatility in our common stock and could harm our business and future prospects. In addition, we believe that, if our common stock is delisted, our stockholders would likely find it more difficult to obtain accurate quotations as to the price of the common stock and it may be more difficult for stockholders to buy or sell our common stock at competitive market prices, or at all.

Off-Balance Sheet Arrangements

Since inception, we have not engaged in any off-balance sheet financing activities.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable.

Item 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Management, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of the design and operation of our disclosure controls and procedures as of January 31, 2019 pursuant to Rules 13a-15(b) or 15d-15(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) are controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission’s (“SEC”) rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file under the Exchange Act is accumulated and communicated to our management, as appropriate, to allow timely decisions regarding required disclosure. Based on such evaluation, management concluded that our disclosure controls and procedures were effective as of January 31, 2019 to ensure that non-financial statement and related disclosure information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms.

Changes in Internal Control over Financial Reporting

No change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) occurred during the fiscal quarter ended January 31, 2019 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

Shareholder Litigation and Demands

The Company and certain of its current and former directors and officers were identified as defendants in a derivative lawsuit filed on March 18, 2015 in the United States District Court for the District of New Jersey captioned *Labare v. Dunleavy, et al.*, Case No. 3:15-cv-01980-FLW-LHG. The derivative complaint alleged claims for breach of fiduciary duty, abuse of control, gross mismanagement and unjust enrichment relating to the now terminated agreement between Victorian Wave Partners Pty. Ltd. (VWP) and the Australian Renewable Energy Agency (ARENA) for the development of a wave power station. The derivative complaint seeks unspecified monetary damages and other relief.

On July 10, 2015, a second derivative lawsuit, captioned *Rywolt v. Dunleavy, et al.*, Case No. 3:15-cv-05469, was filed by another shareholder against the same defendants in the United States District Court for the District of New Jersey alleging similar claims for breach of fiduciary duty, gross mismanagement, abuse of control, and unjust enrichment relating to the now terminated agreement between VWP and ARENA. The *Rywolt* complaint also sought unspecified monetary damages and other relief.

On April 21, 2016, a third derivative lawsuit, captioned *LaCalamito v. Dunleavy, et al.*, Case No. 3:16-cv-02249, was filed by another shareholder against certain current and former directors and officers of the Company in the United States District Court for the District of New Jersey alleging similar claims for breach of fiduciary duty relating to the now terminated agreement between VWP and ARENA. The *LaCalamito* complaint sought unspecified monetary damages and other relief.

On June 9, 2016, a fourth derivative lawsuit, captioned *Pucillo v. Dunleavy, et al.*, was filed by another shareholder against certain current and former directors and officers of the Company in the United States District Court for the District of New Jersey alleging similar claims for breach of fiduciary duty, unjust enrichment, and abuse of control relating to the now terminated agreement between VWP and ARENA. The *Pucillo* complaint sought unspecified monetary damages and other relief.

On October 25, 2016, the Court approved and entered a Stipulation and Order that, among other things, (i) consolidated the *Labare, Rywolt, LaCamito* and *Pucillo* derivative actions; (ii) identified plaintiff *Pucillo* as the lead plaintiff in the consolidated actions; and (iii) stayed the consolidated actions pending the November 14, 2016 settlement hearing in the now-settled securities class action and further order of the Court.

On October 23, 2017, the parties entered into a Stipulation and Agreement of Settlement to resolve the four consolidated derivative lawsuits. The settlement provided for, among other things, the Company to implement certain corporate governance changes, a \$350,000 payment to the plaintiffs' attorneys for attorneys' fees and costs that will be made by the Company's insurance carrier, dismissal of the derivative lawsuits, and certain releases. On November 21, 2017, the plaintiffs filed an unopposed motion seeking preliminary approval of the settlement, which the Court granted on March. On May 14, 2018, the Court held a final settlement approval hearing at which the Court stated that it was approving the settlement. On June 13, 2018, the Court issued a Final Order and Judgement, approving the Stipulation and Agreement Settlement. The Company had accrued \$350,000 related to this matter as a probable and reasonably estimable loss contingency during the twelve months ended April 30, 2018. The Company also had recorded a receivable of \$350,000 from its insurance carrier with the offset to the statement of operations. The Company's insurance carrier made payment of \$350,000 to the plaintiffs' attorneys on May 3, 2018. As a result, the consolidated derivatives lawsuits are now completely resolved, the releases are operative, and the matter is closed.

On May 26, 2017, an attorney claiming to represent two stockholders sent the Company's Board of Directors a Stockholder Litigation Demand letter ("Stockholder Demand"). The Stockholder Demand alleges that the voting of shares for the 1-for-10 reverse stock split at the 2015 annual meeting of stockholders held on October 22, 2015 was not properly counted, and further alleges that, although the Company reported the reverse stock split as having been passed, if the vote was properly counted the reverse stock split would not have been approved. The Stockholder Demand requests the Board of Directors either to deem the reverse stock split as ineffective and disclose the same or to seek a proper and effective stockholder ratification of the reverse stock split. In addition, the Stockholder Demand requests the Board of Directors to adopt and implement adequate internal controls and systems to prevent the alleged improper voting from recurring. On June 23, 2017, the Company responded to the Stockholder Demand, explained the procedures that were followed for the 2015 annual meeting of stockholders and provided the Oath of the Inspector of Elections and the Certificate of the Inspector of Elections that certified as accurate the results of the voting at the meeting including voting on the reverse stock split proposal. On June 26, 2017, the attorney representing the alleged stockholders replied to the Company's response, further alleged that the proxy statement underlying the 2015 annual meeting provided voting instructions that allegedly misled the stockholders regarding whether their brokers could vote on the reverse stock split proposal and renewed their requests of the Board. On July 24, 2017, the Company provided an additional response to the Stockholders Demand, denied the allegations, and declined to take any of the actions requested.

Employment Litigation

On June 10, 2014, the Company announced that it had terminated Charles Dunleavy as its Chief Executive Officer and as an employee of the Company for cause, effective June 9, 2014, and that Mr. Dunleavy had also been removed from his position as Chairman of the Board of Directors. On June 17, 2014, Mr. Dunleavy wrote to the Company stating that he had retained counsel to represent him in connection with an alleged wrongful termination of his employment. On July 28, 2014, Mr. Dunleavy resigned from the Board and the boards of directors of the Company's subsidiaries. In 2014, the Company and Mr. Dunleavy entered into a tolling agreement with respect to his alleged employment claims pending resolution of a securities class action and shareholder derivative litigation. The securities class action was resolved in November 2017 and the derivatives litigation was resolved in June 2018.

On August 28, 2018, counsel for Mr. Dunleavy filed a demand for arbitration, captioned *Charles F. Dunleavy v. Ocean Power Technologies, Inc.*, Case No. 01-18-0003-2374, before the American Arbitration Association in New Jersey. The demand names Ocean Power Technologies, Inc. as the respondent and alleges various claims and seeks declaratory relief and permanent injunction. The demand seeks damages in the amount of \$5 million for compensatory and punitive damages, plus interest and attorneys' fees as well as certain equitable relief. On November 8, 2018, the Company through counsel responded to the demand for arbitration, denied all allegations, and asserted various affirmative defenses. The parties have completed the process of selecting a 3-person arbitration panel, but the panel has not yet scheduled an initial status conference and the parties have not yet scheduled or commenced any discovery. As of January 31, 2019, the Company has not accrued any provision related to this matter since it cannot reasonably estimate the loss contingency.

Tide Runner Marine, Inc.

On June 13, 2018, Tide Runner Marine, Inc. ("Tide Runner") filed a lawsuit in the United States District Court for the District of New Jersey captioned *Tide Runner Marine, Inc. v. Ocean Power Technologies, Inc.*, Case No. 1:18-cv-10496. The complaint names the Company as defendant and alleges claims for breach of contract, unjust enrichment, conversion, and fraud, negligent and/or reckless misrepresentation all as associated with the removal of a Company mooring system off the coast of New Jersey that was completed in May 2017. The complaint seeks damages in the amount of \$2,825,130 together with interest, costs, attorney's fees, punitive damages and such other relief as may be appropriate under the circumstances. On July 27, 2018, the Company filed an answer denying the claims in the complaint, asserted various affirmative defenses, and asserted a counter-claim for damages in the amount of \$15,000 for Tide Runner's failure to pay the Company for certain portions of the mooring system that were recovered. On August 2, 2018, Tide Runner filed its answer to and denied the Company's counterclaim and asserted various affirmative defenses. During the initial scheduling conference held on September 13, 2018, the parties agreed to engage in mediation in an effort to resolve this matter and also agreed to include Tide Runner's subcontractor, Wittich Bros. Marine Inc. ("Wittich") in the mediation process. The parties participated in mediation on November 15, 2018 but were unable to reach an agreement. However, the parties agreed to continue the mediation process and on February 11, 2019 reached a settlement agreement. On February 22, 2019, the parties executed a Settlement Agreement and Release ("Settlement"). Under the Settlement, the Company will pay to Wittich (i) \$50,000 within 10 days after the final execution of the Settlement and (ii) another \$150,000 on or before May 1, 2019. Further, the parties will file a stipulation of dismissal of both Tide Runner's complaint and the Company's counterclaim with prejudice and without costs. Finally, the parties have provided mutual releases for the matters in dispute in the litigation and indemnify each other for future similar claims. As of January 31, 2019, the Company has recorded the settlement within Accrued liabilities in the Consolidated Balance Sheet.

Spain Income Tax Audit

The Company is currently undergoing an income tax audit in Spain for the period from 2008 to 2014, when our Spanish branch was closed. The branch reported net operating losses for each of the years reported that the Spanish tax inspector claims should have been capitalized on the balance sheet instead of charged as an expense in the Statement of Operations. As of April 30, 2017, the Company had recorded a penalty of \$132,000 to Selling, general and administrative costs in the Statement of Operations. The Spanish tax inspector has recently closed its discussion relating to the capitalization of expenses and as of April 30, 2018 the Company reversed the penalty. However, the Spanish tax inspector has now raised questions with respect to the Company's recognition of funds received in 2011 to 2014 from a governmental grant from the European Commission in connection with the Waveport project. It is anticipated that the Company will be assessed a penalty relating to these tax years. The Company has estimated this penalty to be \$177,000 which is recorded within Accrued liabilities in the Consolidated Balance Sheets.

Item 1A. RISK FACTORS

The discussion of our business and operations should be read together with the risk factors contained in Item 1A of our Annual Report on Form 10-K for the year ended April 30, 2018 and set forth below in this Quarterly Report on Form 10-Q. These risk factors describe various risks and uncertainties to which we are or may become subject. These risks and uncertainties have the potential to affect our business, financial condition, results of operations, cash flows, strategies or prospects in a material and adverse manner. There have been no material changes in our risk factors from those disclosed in our Annual Report on Form 10-K filed with the SEC on July 17, 2018.

Our auditors have raised substantial doubts as to our ability to continue as a going concern.

Our financial statements have been prepared assuming we will continue as a going concern. Due to the significant product development costs associated with our business and operations, we have experienced substantial and recurring losses from operations, which have contributed to an accumulated deficit of \$207.3 million as of January 31, 2019. As of January 31, 2019, the Company had approximately \$2.7 million in cash, cash equivalents and restricted cash on hand. The Company generated revenues of \$0.4 and \$0.3 million during the nine months ended January 31, 2019 and 2018, respectively. Based on the Company's cash, cash equivalents and restricted cash balances as of January 31, 2019, the Company believes that it will be able to finance its capital requirements and operations into the quarter ending April 30, 2019.

We continue to experience operating losses and currently have only two revenue producing contracts, one with Premier Oil for the lease of a PB3 PowerBuoy® to be deployed in one of PMO's offshore fields in the North Sea, and another contract with Eni that provides for a minimum 24-month contract that includes an 18-month PB3 PowerBuoy® lease and associated project management. During fiscal 2018, our net burn rate (cash used in operations less cash generated by operations) including product development spending was approximately \$900,000 per month.

We have been funding our business principally through sales of our securities, and we expect to continue to fund our business with sales of our securities and, to a limited extent, with our revenues until, if ever, we generate sufficient cash flow to internally fund our business. These factors, among others, raise substantial doubt about our ability to continue as a going concern. Our consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty. We anticipate that our operating expenses will be approximately \$14.5 million in fiscal 2019 including product development spending of more than \$6.3 million. However, we may choose to reduce our operating expenses through personnel reductions, and reductions in our research and development and other operating costs during fiscal year 2019, if we are not successful in our efforts to raise additional capital. We cannot assure you that we will be able to increase our revenues and cash flow to a level which would support our operations and provide sufficient funds to pay our obligations for the foreseeable future. Further, we cannot assure you that we will be able to secure additional financing or raise additional capital or, if we are successful in our efforts to raise additional capital, of the terms and conditions upon which any such financing would be extended. If we are unable to meet our obligations, we would be forced to cease operations, in which event investors would lose their entire investment in our company.

We have a history of operating losses and may not achieve or maintain profitability and positive cash flow.

We have incurred net losses since we began operations in 1994, including net losses attributable to Ocean Power Technologies, Inc. of \$9.7 million during the nine months ended January 31, 2019 and \$10.2 million in fiscal 2018. As of January 31, 2019, we had an accumulated deficit of \$207.3 million. To date, our activities have consisted primarily of activities related to the development and testing of our technologies and our PowerBuoy®. Thus, our losses to date have resulted primarily from costs incurred in our research and development programs and from our selling, general and administrative costs. As we continue to develop our proprietary technologies, we expect to continue to have a net use of cash from operating activities unless or until we achieve positive cash flow from the commercialization of our products and services.

We do not know whether we will be able to successfully commercialize our PowerBuoys®, or whether we can achieve profitability. There is significant uncertainty about our ability to successfully commercialize our PowerBuoys® in our targeted markets. Even if we do achieve commercialization of our PowerBuoy® and become profitable, we may not be able to achieve or, if achieved, sustain profitability on a quarterly or annual basis.

We must continually improve existing products, design and sell new products and invest in research and development in order to compete effectively.

The markets for our products are characterized by rapid technological change, evolving industry standards and continuous improvements in products. Due to constant changes in our markets, future success depends on our ability to develop new technologies, products, processes and product applications. Examples of this include our subsea battery solution and our hybrid PowerBuoy®. New product development and commercialization efforts, including efforts to enter markets or product categories in which we have limited or no prior experience, have inherent risks. These risks include the costs involved, such as development and commercialization, product development or launch delays, and the failure of new products and line extensions to achieve anticipated levels of market acceptance or growth in sales or operating income. We also face the risk that our competitors will introduce innovative new products that compete with our products. If new product development and commercialization efforts are not successful, our financial results could be adversely affected.

Product and technological developments are accomplished primarily through internally-funded R&D projects. Because it is not generally possible to predict the amount of time required and costs involved in achieving certain R&D objectives, actual development costs may exceed budgeted amounts and estimated product development schedules may be extended. Our financial condition and results of operations may be materially and adversely affected if:

- Product improvements are not completed on a timely basis;
- New products are not introduced on a timely basis or do not achieve sufficient market penetration;
- There are budget overruns or delays in R&D efforts; or
- New products experience reliability or quality problems, or otherwise do not meet customer preferences or requirements.

We are at risk of being de-listed from The NASDAQ Stock Market if we do not regain compliance with the minimum \$1 bid price per share required by NASDAQ rules.

On August 9, 2018, we received a letter from The NASDAQ Stock Market informing us that the closing bid price of our common stock has been below \$1.00 per share for a period of 30 consecutive trading days, and as a result, we are not in compliance with the minimum bid price requirement for continued listing. Under the NASDAQ Listing Rules), we have a grace period of 180 calendar days, or until February 5, 2019, in which to regain compliance with the minimum bid price rule. To regain compliance, the closing bid price of our common stock must meet or exceed \$1.00 per share for a minimum of ten consecutive business days during this grace period. If we do not regain compliance before February 5, 2019, the NASDAQ stated that it will provide us with written notice that our securities are subject to delisting. At that time, we may appeal the NASDAQ's determination to a NASDAQ Listing Qualifications Panel, which would stay any further delisting action by the NASDAQ pending a final decision by the panel. Alternatively, we may be eligible for an additional 180 calendar day grace period if we meet the continued listing standards, with the exception of bid price, for the NASDAQ Capital Market, and we state our intent to affect a reverse split, if necessary, to cure such deficiency.

On February 11, 2019, the Company received another written notice from the Listing Qualifications department of NASDAQ notifying the Company that it had not regained compliance with the minimum bid price requirement and that the Company's stockholders' equity as reported in the Company's Quarterly Report on Form 10-Q for the quarter ended October 31, 2018 does not qualify the Company for an additional 180 calendar day extension period for compliance. On February 19, 2019 the Company submitted a letter to appeal the determination to a Hearings Panel (the "Panel"), pursuant to the procedures set forth in the NASDAQ Listing Rule 5800 Series. The appeal stayed the suspension of the Company's securities pending the Panel's decision, during which time the Company's common stock will continue to be listed on NASDAQ, and the Company's common stock will continue to trade under the symbol "OPTT". The Company currently has an appeal scheduled before the Panel. We believe our one-for-twenty reverse split of our common stock, effective March 12, 2019, will enable the Company to regain compliance with NASDAQ minimum bid price requirement.

In addition, we expect to receive a notification soon that the Company is not in compliance with the minimum stockholders' equity requirement based on the information reported in the Company's Quarterly Report on Form 10-Q for the quarter ended January 31, 2019, because of our failure to maintain stockholders' equity of at least \$2.5 million as of such date in accordance with the applicable NASDAQ Listing Rules. If we are unable to raise sufficient proceeds in this offering, we believe there is a risk we will not be able to meet this listing requirement on NASDAQ.

If our common stock is delisted from NASDAQ, our ability to raise capital through public offerings of our securities and to finance our operations could be adversely affected. We also believe that delisting would likely result in decreased liquidity and/or increased volatility in our common stock and could harm our business and future prospects. In addition, we believe that, if our common stock is delisted, our stockholders would likely find it more difficult to obtain accurate quotations as to the price of the common stock and it may be more difficult for stockholders to buy or sell our common stock at competitive market prices, or at all.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

On August 13, 2018, the Company entered into a common stock purchase agreement with Aspire Capital Fund, LLC (“Aspire Capital”) which provides that, subject to certain terms, conditions and limitations, Aspire Capital is committed to purchase up to an aggregate of \$10.0 million of shares of the Company’s common stock over a 30-month period. In consideration for entering into the agreement, the Company issued to Aspire Capital 428,571 shares of our common stock as a commitment fee. Any proceeds that the Company will receive under said common stock purchase agreement are expected to be used for expanding our sales and marketing through new hires and target market experts, increasing product manufacturing capabilities, and building additional PowerBuoys® to meet potential market demand, and for other general corporate purposes. As of January 31, 2019, the Company has sold 800,000 shares of common stock with an aggregate market value of \$301,000 at an average price of \$0.38 per share pursuant to this common stock purchase agreement. This transaction was deemed exempt from registration under the Securities Act in reliance on Section 4(a)(2).

The following table details the Company’s share repurchases during the quarter:

<u>Period</u>	<u>Total Number of Shares Purchased</u>	<u>Average Price Paid per Share</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans</u>	<u>Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plan</u>
November 1 - November 30	-	\$ -	-	-
December 1 - December 31	-	\$ -	-	-
January 1 - January 31	-	\$ -	-	-

Item 3. DEFAULTS UPON SENIOR SECURITIES

None.

Item 4. MINE SAFETY DISCLOSURES

Not applicable.

Item 5. OTHER INFORMATION

None.

Item 6. EXHIBIT INDEX

- 10.1 [Sales Agreement between the Company and A.G.P./Alliance Global Partners \(incorporated by reference to Exhibit 10.1 to Form 8-K filed with the SEC on January 7, 2019\)](#)
- 10.2 [Contract between U.S. Navy and the Company dated February 11, 2019.](#)
- 31.1 [Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002](#)
- 31.2 [Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002](#)
- 32.1 * [Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002](#)
- 32.2 * [Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002](#)

101 The following financial information from Ocean Power Technologies, Inc.'s Quarterly Report on Form 10-Q for the quarter ended January 31, 2019, formatted in eXtensible Business Reporting Language (XBRL): (i) Consolidated Balance Sheets – January 31, 2019 (unaudited) and April 30, 2018, (ii) Consolidated Statements of Operations (unaudited) – three and nine months ended January 31, 2019 and 2018, (iii) Consolidated Statements of Comprehensive Loss (unaudited) – three and nine months ended January 31, 2019 and 2018, (iv) Consolidated Statements of Cash Flows (unaudited) – nine months ended January 31, 2019 and 2018, (v) Consolidated Statement of Stockholders' Equity (unaudited) – nine months ended January 31, 2019 (vi) Notes to Consolidated Financial Statements.**

+ Management contract or compensatory plan or arrangement.

+++ Portions of this exhibit have been omitted pursuant to a request for confidential treatment filed with the Securities and Exchange Commission and this exhibit has been filed separately with the Securities and Exchange Commission in connection with such request.

* As provided in Item 601(b)(32)(ii) of Regulation S-K, this exhibit shall not be deemed to be "filed" or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, and shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liability under those sections.

** As provided in Rule 406T of Regulation S-T, this exhibit shall not be deemed "filed" or a part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, and shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liability under those sections.

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.

Ocean Power Technologies, Inc.
(Registrant)

Date: March 11, 2019

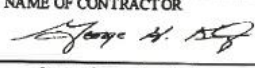

/s/ George H. Kirby III

By: George H. Kirby III
President and Chief Executive Officer

Date: March 11, 2019

/s/ Matthew T. Shafer

By: Matthew T. Shafer
Chief Financial Officer

AWARD/CONTRACT		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1 29
2. CONTRACT (Proc. Inv. Ident.) NO. N6833519CJ247		3. EFFECTIVE DATE 13 FEB 2019		4. REQUISITION PURCHASE REQUEST / PROJECT NO. SEE SCHEDULE	
5. ISSUED BY NAVAL AIR WARFARE CENTER AD (WAC) CODE E25232B100 2, HW 547 LANEHURST NJ 08733-5382		CODE N68335	5. ADMINISTERED BY (if other than Item 5) 3CMA SPRINGFIELD 3LDC 33 MCATINNY ARSENAL NJ 07806-5000		CODE S3101A
7. NAME AND ADDRESS OF CONTRACTOR (No. street city, county, state and zip code) OCEAN POWER TECHNOLOGIES, INC. MATTHEWMAY 28 ENGELHARD DR, STE B MONROE TOWNSHIP NJ 08831-3720			8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)		
9. DISCOUNT FOR PROMPT PAYMENT Net 30 Days			10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN: ITEM Section G		
CODE 04E77		FACILITY CODE			
11. SHIP TO/MARK FOR NAVAL FACILITIES ENGINEERING COMMAND EKW WARREN BARTEL NAVFAC EWAC 1100 23RD AVE, CODE C18 PORT HUENEME CA 93043		CODE N39430	12. PAYMENT WILL BE MADE BY DFAS COLUMBUS CENTER NORTH ENTITLEMENT OPERATIONS P O BOX 182317 COLUMBUS OH 43218-2317		CODE HQ0337
13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) <input type="checkbox"/> 41 U.S.C. 253(c)			14. ACCOUNTING AND APPROPRIATION DATA See Schedule		
15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
SEE SCHEDULE					
15G. TOTAL AMOUNT OF CONTRACT					\$124,989.79
16. TABLE OF CONTENTS					
(X) SEC.	DESCRIPTION	PAGE(S)	(X) SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE			PART II - CONTRACT CLAUSES		
X A	SOLICITATION/ CONTRACT FORM	1 - 2	X I	CONTRACT CLAUSES	23 - 29
X B	SUPPLIES OR SERVICES AND PRICES/ COSTS	3 - 7	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.		
X C	DESCRIPTION/ SPECS./ WORK STATEMENT	8	X J	LIST OF ATTACHMENTS	
X D	PACKAGING AND MARKING	9	PART IV - REPRESENTATIONS AND INSTRUCTIONS		
X E	INSPECTION AND ACCEPTANCE	10	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
X F	DELIVERIES OR PERFORMANCE	11 - 12	L	INSURS. CONDS. AND NOTICES TO OFFERORS	
X G	CONTRACT ADMINISTRATION DATA	13 - 19	M	EVALUATION FACTORS FOR AWARD	
X H	SPECIAL CONTRACT REQUIREMENTS	20 - 22			
CONTRACTING OFFICER WILL COMPLETE ITEM 17 (SEALED-BID OR NEGOTIATED PROCUREMENT) OR 18 (SEALED-BID PROCUREMENT) AS APPLICABLE					
17 <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 4 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)			18 <input type="checkbox"/> SEALED-BID AWARD (Contractor is not required to sign this document.) Your bid on Solicitation Num ber _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as the terms stated above and on any continuation sheets. The award is on the basis of the contract which consists of the following documents: (a) the Government's solicitation and your bid, and (b) this award contract. No further contractual documents are necessary. (Block 18 should be checked only when awarding a sealed-bid contract.)		
19A. NAME AND TITLE OF SIGNER (Type or print) George H. Kirby President & Chief Executive Officer			20A. NAME OF CONTRACTING OFFICER JUDITH A. DACTIS TEL: 732-323-1321 EMAIL: judith.dactis@navy.mil		
19B. NAME OF CONTRACTOR BY  (Signature of person authorized to sign)		19C. DATE SIGNED 2/11/2019	20B. UNITED STATES OF AMERICA BY  (Signature of Contracting Officer)		20C. DATE SIGNED 13 FEB 2019

Section A - Solicitation/Contract Form

SECTION A NOTES

Section A - SOLICITATION/CONTRACT FORM

CLAUSES INCORPORATED BY FULL TEXT

Points of Contact

Contract Specialist

Andy C. Abram
Phone: 732-323-4816
Email: andrew.abram@navy.mil

Government Technical Point of Contact

Warren Bartel
Phone: 805-982-1215
Email: warren.bartel@navy.mil

Alternate Government Technical Point of Contact

Bradley Hunter
Phone: 805-982-5319
Email: Bradley.hunter@navy.mil

Contractor

Matthew May
Phone: 609-730-0400 ext. 222
Email: mmay@oceanpowertech.com

THIS REQUIREMENT IS FOR A SMALL BUSINESS INNOVATION RESEARCH (SBIR) PHASE I CONTRACT IN SUPPORT OF THE OFFICE OF NAVAL FACILITIES ENGINEERING COMMAND EXW SBIR PROGRAM.

Refer to the following website for information on clauses incorporated into this contract: <http://farsite.hill.af.mil/>

All Phase I award recipients may submit a Phase II Initial Proposal. To be considered for a Phase II contract offerors must submit the Phase II Initial Proposal in accordance with Section H.9 of this contract.

The due date for submission of both the Phase I Final Report (CLIN Item No. 0003) and the Phase II Initial Proposal is 1:00 PM EST on the date specified in CLIN Item No. 0003 in Section F of this contract.

A copy of all data deliverables shall be uploaded to: <https://www.navyvsbirprogram.com/navydeliverables/>

Contract Administration Delegation:

In accordance with FAR 42.202, the Contracting Officer delegates all contract administration functions listed in FAR 42.302(a). The Contractor is advised to direct all inquiries concerning administration of this contract to the Administrative Contracting Officer (ACO) designated in Block 6 of the SF26 of this award document.

APPLICABLE PRODUCT AND SERVICE CODE (PSC) FOR THIS PROCUREMENT IS AD91.

Section B - Supplies or Services and Prices

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Progress Report FFP Services and materials necessary to conduct research and development under SBIR Topic N183-141 entitled " Technology Development of Fiber Optic Moorings for Surface Communication Buoys" and deliver data in accordance with schedule in the contract.	1	Lot	\$62,500.00	\$62,500.00
	FOB: Destination PURCHASE REQUEST NUMBER: OCEANPWR PSC CD: AD91				
				NET AMT	\$62,500.00

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
000101	Funding for CLIN 0001 FFP PURCHASE REQUEST NUMBER: 1300763758				\$0.00
	ACRN AA CIN: 130076375800001				\$62,500.00
				NET AMT	\$0.00

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002	Progress Report FFP Services and materials necessary to conduct research and development under SBIR Topic N183-141 entitled " Technology Development of Fiber Optic Moorings for Surface Communication Buoys" and deliver data in accordance with schedule in the contract.	1	Lot	\$47,000.00	\$47,000.00
	FOB: Destination PURCHASE REQUEST NUMBER: OCEANPWR PSC CD: AD91				

NET AMT \$47,000.00

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
000201	Funding for CLIN 0002 FFP PURCHASE REQUEST NUMBER: 1300763758				\$0.00

NET AMT \$0.00

ACRN AA \$47,000.00
CIN: 130076375800001

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003		1	Lot	\$15,489.79	\$15,489.79

Final Report
FFP

Services and materials necessary to conduct research and development under SBIR Topic N183-141 entitled " Technology Development of Fiber Optic Moorings for Surface Communication Buoys" and deliver data in accordance with schedule in the contract.

FOB: Destination
PURCHASE REQUEST NUMBER: OCEANPWR
PSC CD: AD91

NET AMT	\$15,489.79
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ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
000301					\$0.00

Funding for CLIN 0003
FFP
PURCHASE REQUEST NUMBER: 1300763758

NET AMT	\$0.00
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ACRN AA
CIN: 130076375800001

NET AMT	\$15,489.79
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ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0004		1	Lot	\$45,000.00	\$45,000.00
OPTION	Progress Report FFP Services and materials necessary to conduct research and development under SBIR Topic N183-141 entitled " Technology Development of Fiber Optic Moorings for Surface Communication Buoys" and deliver data in accordance with schedule in the contract.				
	FOB: Destination PURCHASE REQUEST NUMBER: OCEANPWR PSC CD: AD91				

NET AMT \$45,000.00

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0005		1	Lot	\$34,500.00	\$34,500.00
OPTION	Progress Report FFP Services and materials necessary to conduct research and development under SBIR Topic N183-141 entitled " Technology Development of Fiber Optic Moorings for Surface Communication Buoys" and deliver data in accordance with schedule in the contract.				
	FOB: Destination PURCHASE REQUEST NUMBER: OCEANPWR PSC CD: AD91				

NET AMT \$34,500.00

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0006		1	Lot	\$20,462.13	\$20,462.13
OPTION	Final Report FFP Services and materials necessary to conduct research and development under SBIR Topic N183-141 entitled " Technology Development of Fiber Optic Moorings for Surface Communication Buoys" and deliver data in accordance with schedule in the contract.				
	FOB: Destination PURCHASE REQUEST NUMBER: OCEANPWR PSC CD: AD91				
NET AMT					\$20,462.13

SECTION B NOTES

CLAUSES INCORPORATED BY FULL TEXT

B.1 This is a Phase I SBIR contract award. This is a Firm Fixed Price contract. The Contractor shall be paid upon completion of performance of line or sub line items contained in this contract in accordance with Clause G.1 and the Payment provisions contained in the General Reference provisions in Section I. Items 0004-0006 are option items to which "Exercise of Option" in Section H applies, and which are to be provided only if the options are exercised.

**Contractors are advised that a web site is available for viewing or printing out DIDs as follows:
<https://assist.dla.mil/online/start/>. Progress reports shall follow the format in DID # DI-MGMT-80555. All reports produced under this contract shall contain Distribution Statement B only.**

Phase I contractors are cautioned that if they intend to submit a proposal for Phase II work on a cost reimbursement basis, they must begin implementing a Government-approved accounting system if they do not already have an approved accounting system. It is a federal regulatory requirement that a cost reimbursement contract cannot be awarded without some form of an approved accounting system. Early coordination with a DCAA representative or other outside accounting professional should alleviate that problem. In order to understand cost reimbursement contract principles, Phase I contractors are advised to review the Limitation of Cost and Limitation of Funds clauses contained at FAR clauses 52.232-20 and 52.232-22- APR 84). Only if it is objectively certain that definite design, development or performance requirements can be achieved, and are specific enough to allow for Government price analysis and quality assurance, would a fixed price contract be appropriate for a Phase II proposal.

OPTION DELIVERY INFORMATION**PLEASE NOTE THE FOLLOWING:**

Delivery Dates for Option CLINs 0004-0006 are automatically generated in the system. **Actual delivery dates will be determined if and when the contract modification invoking the option is issued.**

Section C - Descriptions and Specifications

SECTION C NOTES

Section C - DESCRIPTIONS AND SPECIFICATIONS

CLAUSES INCORPORATED BY FULL TEXT

C.1 This contract constitutes acceptance of the **Ocean Power Technologies** offer submitted under proposal #N183-141-0120 tendered under Topic #N183-141 advertised in SBIR solicitation #18.3, under this bilateral agreement, and sets forth all terms and conditions pertinent to award of this contract, including any specific information required for contract performance and administration.

Items 0001-0003 and 0004-0006 (if exercised) include performance of the R&D work and delivery of the data and shall be performed in accordance with the Statement of Work contained in the contractor's SBIR proposal. **The research effort depicted in the technical volume of the contractor's proposal is hereby accepted.** The work shall be conducted in accordance with the detailed obligations to which the Contractor committed itself through submission of the referenced proposal and is made subject to the provisions of FAR 52.215-8, Order of Precedence, as sub item (f) of that clause. No other Government Statement of Work is required for performance under this contract (unless otherwise specified and included as an Attachment to this contract).

C.2 If a kickoff meeting is not an express task contained in the Statement of Work, a kickoff meeting is not required. Failure to hold a kickoff meeting should not be construed by the Contractor as a reason for not beginning work immediately upon award of the contract.

C.3 If exercised, Items 0004-0006 shall provide for the services and material necessary to broaden the investigative scope of Phase I or conduct the initial stages of the Phase II project. This shall include completion of unresolved Phase I efforts, and may include, but are not limited to, identification of follow-on research issues and any assembly, test, or validation concepts required to proceed with Phase II efforts.

C.4 The Government reserves the right to establish task precedence any time there is a conflict between technical methodology, critical path or engineering strategy needed to accomplish the goal of the Navy program affected by, or under, this contract. Prioritization of conflicting tasking by the Contracting Officer, or his delegate, does not constitute a change to the contract under the Changes Clause per clause H.1 or FAR 52.243-1.

Section D - Packaging and Marking

SECTION D NOTES

Section D - PACKAGING AND MARKING

D.1 All unclassified data shall be prepared for shipment in accordance with best commercial practice to assure safe arrival at the destination.

D.2 All reports shall prominently show the following information on the cover of the report/data or in the letter of transmittal (if a progress report):

- (1) Name and business address of the contractor
 - (2) Contract number
 - (3) Name, address and office location of the Government Technical Liaison
 - (4) SBIR Research Topic Title
-

Section E - Inspection and Acceptance

SECTION E NOTES**INSPECTION AND ACCEPTANCE TERMS**

E.1 **Inspection and acceptance of the effort and deliverables required under this contract shall be made at destination by the Government-designated technical liaison, or another duly authorized representative of the receiving activity. All deliverables should therefore be submitted to his/her address as listed in Section G below. See the general reference section of this contract for the appropriate provisions which fully describe the rights and duties of the parties in inspection (FAR 52.246-9) and acceptance.**

E.2 The line items above shall be provided in accordance with the substantive requirements of the Data Item Descriptions referenced in the schedule. Acceptance of the data submitted under the line items above shall constitute final acceptance of the research and development work conducted under this contract.

E.3 For the purposes of FAR 52.232-25 (a) (5) (i), Prompt Payment, Government acceptance shall be deemed to have occurred constructively on the 30th day after the receipt of the data/deliverables at the receiving activity.

INSPECTION AND ACCEPTANCE TERMS

Supplies/services will be inspected/accepted at:

CLIN	INSPECT AT	INSPECT BY	ACCEPT AT	ACCEPT BY
0001	Destination	Government	Destination	Government
000101	N/A	N/A	N/A	N/A
0002	Destination	Government	Destination	Government
000201	N/A	N/A	N/A	N/A
0003	Destination	Government	Destination	Government
000301	N/A	N/A	N/A	N/A
0004	Destination	Government	Destination	Government
0005	Destination	Government	Destination	Government
0006	Destination	Government	Destination	Government

Section F - Deliveries or Performance

SECTION F NOTES

Section F - DELIVERIES OR PERFORMANCE

OPTION DELIVERY INFO

Delivery Dates for Option CLINs 0004-0006 are automatically generated in the system. Actual delivery dates will be determined if and when the contract modification invoking the option is issued.

F.1 To recognize the limitations of budget allocation (and its effect on selecting Phase II awardees), and in the interests of encouraging pursuit of real-time state of the art R&D, requests for extensions of delivery dates or performance schedules under this effort are discouraged as a customary practice. They will continue to be evaluated on a case-by-case basis, however contractors are cautioned that Phase I contracts that exceed 12 months in performance, for whatever reason, may not be considered for a Phase II SBIR award.

DELIVERY INFORMATION

CLIN	DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
0001	15-APR-2019	1	NAVAL FACILITIES ENGINEERING COMMAND EXW WARREN BARTEL NAVFAC EXWC 1100 23RD AVE, CODE C19 PORT HUENEME CA 93043 805-982-1215 FOB: Destination	N39430
000101	N/A	N/A	N/A	N/A
0002	17-JUN-2019	1	NAVAL FACILITIES ENGINEERING COMMAND EXW WARREN BARTEL NAVFAC EXWC 1100 23RD AVE, CODE C19 PORT HUENEME CA 93043 805-982-1215 FOB: Destination	N39430
000201	N/A	N/A	N/A	N/A

0003	15-AUG-2019	1	NAVAL FACILITIES ENGINEERING COMMAND EXW WARREN BARTEL NAVFAC EXWC 1100 23RD AVE, CODE CI9 PORT HUENEME CA 93043 805-982-1215 FOB: Destination	N39430
000301	N/A	N/A	N/A	N/A
0004	15-OCT-2019	1	NAVAL FACILITIES ENGINEERING COMMAND EXW WARREN BARTEL NAVFAC EXWC 1100 23RD AVE, CODE CI9 PORT HUENEME CA 93043 805-982-1215 FOB: Destination	N39430
0005	16-DEC-2019	1	(SAME AS PREVIOUS LOCATION) FOB: Destination	N39430
0006	18-FEB-2020	1	(SAME AS PREVIOUS LOCATION) FOB: Destination	N39430

CLAUSES INCORPORATED BY REFERENCE

52.242-15	Stop-Work Order	AUG 1989
52.247-34	F.O.B. Destination	NOV 1991

Section G - Contract Administration Data

ACCOUNTING AND APPROPRIATION DATA

AA: 1791319 W6ED 255 00014 0 050120 2D 000000
 COST CODE: A00004874345
 AMOUNT: \$124,989.79

ACRN	CLIN/SLIN	CIN	AMOUNT
AA	000101	130076375800001	\$62,500.00
	000201	130076375800001	\$47,000.00
	000301	130076375800001	\$15,489.79

CLAUSES INCORPORATED BY FULL TEXT

**252.232-7003 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS AND RECEIVING REPORTS
 (JUN 2012)**

(a) Definitions. As used in this clause--

(1) Contract financing payment and invoice payment have the meanings given in section 32.001 of the Federal Acquisition Regulation.

(2) Electronic form means any automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using Wide Area WorkFlow (WAWF) or another electronic form authorized by the Contracting Officer.

(3) Payment request means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(4) Receiving report means the data required by the clause at 252.246-7000, Material Inspection and Receiving Report.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests and receiving reports using WAWF, in one of the following electronic formats that WAWF accepts: Electronic Data Interchange, Secure File Transfer Protocol, or World Wide Web input. Information regarding WAWF is available on the Internet at <https://wawf.eb.mil/>.

(c) The Contractor may submit a payment request and receiving report using other than WAWF only when--

(1) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor. In such cases, the Contractor shall include a copy of the Contracting Officer's determination with each request for payment;

(2) DoD makes payment for commercial transportation services provided under a Government rate tender or a contract for transportation services using a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System);

(3) DoD makes payment for rendered health care services using TRICARE Encounter Data System (TEDS) as the electronic format; or

(4) When the Governmentwide commercial purchase card is used as the method of payment, only submission of the receiving report in electronic form is required.

(d) The Contractor shall submit any non-electronic payment requests using the method or methods specified in Section G of the contract.

(e) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payments requests.

252.232-7006 WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (MAY 2013)

(a) Definitions, as used in this clause--

"Department of Defense Activity Address Code (DoDAAC)" is a six position code that uniquely identifies a unit, activity, or organization.

"Document type" means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

"Local processing office (LPO)" is the office responsible for payment certification when payment certification is done external to the entitlement system.

(b) Electronic invoicing. The WAWF system is the method to electronically process vendor payment requests and receiving reports, as authorized by DFARS 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(c) WAWF access. To access WAWF, the Contractor shall--

(1) Have a designated electronic business point of contact in the System for Award Management at <https://www.acquisition.gov>; and

(2) Be registered to use WAWF at <https://wawf.eb.mil/> following the step-by-step procedures for self-registration available at this Web site.

(d) WAWF training. The Contractor should follow the training instructions of the WAWF Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the "Web Based Training" link on the WAWF home page at <https://wawf.eb.mil/>.

(e) WAWF methods of document submission. Document submissions may be via Web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) WAWF payment instructions. The Contractor must use the following information when submitting payment requests and receiving reports in WAWF for this contract/order:

(1) Document type. The Contractor shall use the following document type(s).

COMBO

(Contracting Officer: Insert applicable document type(s). Note: If a "Combo" document type is identified but not supportable by the Contractor's business systems, an "Invoice" (stand-alone) and "Receiving Report" (stand-alone) document type may be used instead.)

(2) Inspection/acceptance location. The Contractor shall select the following inspection/acceptance location(s) in WAWF, as specified by the contracting officer.

N39430

(Contracting Officer: Insert inspection and acceptance locations or "Not applicable.")

(3) Document routing. The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system.

Routing Data Table*	Data to be entered in WAWF
Field Name in WAWF	
Pay Official DoDAAC:	HQ0339 _____
Issue By DoDAAC:	N68335 _____
Admin DoDAAC:	S3101A _____
Inspect By DoDAAC:	N39430 _____
Ship To Code:	N39430 _____
Ship From Code:	_____
Mark For Code:	_____
Service Approver (DoDAAC):	_____
Service Acceptor (DoDAAC):	_____
Accept at Other DoDAAC:	_____
LPO DoDAAC:	_____
DCAA Auditor DoDAAC:	HAA310 _____
Other DoDAAC(s):	_____

(*Contracting Officer: Insert applicable DoDAAC information or "See schedule" if multiple ship to/acceptance locations apply, or "Not applicable.")

(4) Payment request and supporting documentation. The Contractor shall ensure a payment request includes appropriate contract line item and subline item descriptions of the work performed or supplies delivered, unit price/cost per unit, fee (if applicable), and all relevant back-up documentation, as defined in DFARS Appendix F, (e.g. timesheets) in support of each payment request.

(5) WAWF email notifications. The Contractor shall enter the email address identified below in the "Send Additional Email Notifications" field of WAWF once a document is submitted in the system.

Warren Bartel 805-982-1215 or at warren.bartel@navy.mil

(Contracting Officer: Insert applicable email addresses or "Not applicable.")

(g) WAWF point of contact. (1) The Contractor may obtain clarification regarding invoicing in WAWF from the following contracting activity's WAWF point of contact. For Navy WAWF questions call DFAS Customer Care 1-800-756-4571 option 6

(2) For technical WAWF help, contact the WAWF helpdesk at 866-618-5988.

252.246-7000 MATERIAL INSPECTION AND RECEIVING REPORT (MAR 2008)

(a) At the time of each delivery of supplies or services under this contract, the Contractor shall prepare and furnish to the Government a material inspection and receiving report in the manner and to the extent required by Appendix F, Material Inspection and Receiving Report, of the Defense FAR Supplement.

(b) Contractor submission of the material inspection and receiving information required by Appendix F of the Defense FAR Supplement by using the Wide Area WorkFlow (WAWF) electronic form (see paragraph (b) of the clause at 252.232-7003) fulfills the requirement for a material inspection and receiving report (DD Form 250). Two copies of the receiving report (paper copies of either the DD Form 250 or the WAWF report) shall be distributed with the shipment, in accordance with Appendix F, Part 4, F-401, Table 1, of the Defense FAR Supplement. Appendix F--Material Inspection and Receiving Report

G-TXT-PAY PAYMENT INSTRUCTIONS (APR 2018)

For Government Use Only					
Contract/Order Payment Clause	Type of Payment Request				Payment Office
		Supply	Service	Construction	Allocation Method
52.212-4 (Alt I), Contract Terms and Conditions— Commercial Items	Cost Voucher	X	X	N/A	Line item specific proration. If there is more than one ACRN within a deliverable line or deliverable subline item, the funds will be allocated in the same proportion as the amount of funding currently unliquidated for each ACRN on the deliverable line or deliverable subline item for which payment is requested.
52.216-7, Allowable Cost and Payment					
52.232-7, Payments under Time-and- Materials and Labor- Hour Contracts					
52.232-1, Payments	Navy Shipbuilding Invoice (Fixed Price)	X	N/A	N/A	Line Item specific by fiscal year. If there is more than one ACRN within a deliverable line or deliverable subline item, the funds will be allocated using the

					oldest funds. In the event of a deliverable line or deliverable subline item with two ACRNs with the same fiscal year, those amounts will be prorated to the available unliquidated funds for that year.
52.232-1, Payments; 52.232-2, Payments under Fixed-Price Research and Development Contracts; 52.232-3, Payments under Personal Services Contracts; 52.232-4, Payments under Transportation Contracts and Transportation-Related Services Contracts; and 52.232-6, Payments under Communication Service Contracts with Common Carriers	Invoice	X	X	N/A	Line Item Specific proration. If there is more than one ACRN within a deliverable line or deliverable subline item, the funds will be allocated in the same proportion as the amount of funding currently unliquidated for each ACRN on the deliverable line or deliverable subline item for which payment is requested.
52.232-5, Payments Under Fixed-Price Construction Contracts	Construction Payment Invoice	N/A	N/A	X	Line Item specific by fiscal year. If there is more than one ACRN within a deliverable line or deliverable subline item, the funds will be allocated using the oldest funds. In the event of a deliverable line or deliverable subline item with two ACRNs with the same fiscal year, those amounts will be prorated to the available unliquidated funds for that year.
52.232-16, Progress Payments	Progress Payment*	X	X	N/A	Contract-wide proration. Funds shall be allocated in the same proportion as the amount of funding currently unliquidated for each ACRN. Progress Payments are considered contract level financing, and the "contract price" shall reflect the fixed price portion of the contract per FAR 32.501-3.

52.232-29, Terms for Financing of Purchases of Commercial Items;	Commercial Item Financing*	X	X	N/A	Specified in approved payment. The contracting officer shall specify the amount to be paid and the account(s) to be charged for each payment approval in accordance with FAR 32.207(b)(2) and 32.1007(b)(2).
52.232-30, Installment Payments for Commercial Items					
52.232-32, Performance-Based Payments	Performance-Based Payments*	X	X	N/A	Specified in approved payment. The contracting officer shall specify the amount to be paid and the account(s) to be charged for each payment approval in accordance with FAR 32.207(b)(2) and 32.1007(b)(2).
252.232-7002, Progress Payments for Foreign Military Sales Acquisitions	Progress Payment*	X	X	N/A	Allocate costs among line items and countries in a manner acceptable to the Administrative Contracting Officer.

*Liquidation of Financing Payments. Liquidation will be applied by the payment office against those ACRNs which are identified by the payment instructions for the delivery payment and in keeping with the liquidation provision of the applicable contract financing clause (i.e., progress payment, performance-based payment, or commercial item financing).

SECTION G NOTES

Section G - CONTRACT ADMINISTRATION DATA

G.1 For administration, inspection, payment, patent and customer service purposes, the following information is provided:

Contract Administration Office

DCMA Springfield-DoDAAC: S3101A
 BLDG. 93
 Picatinny Arsenal, NJ 07806-5000
 Phone: 973-724-8304
 Fax: 973-724-5791
 Email: dcmaspringfield2@dcma.mil

The DCMA office has been assigned certain admin functions as set out in FAR Part 42. All correspondence should be directed to the Administrative Contracting Officer (ACO) at the address above. However, a copy of all correspondence should be directed to the Procurement Office Point of Contact.

Payment Office

DFAS- Columbus Center- DoDAAC: HQ0337
 North Entitlement Operations
 PO Box 182317
 Columbus, OH 43218-2317
 Customer Service #: 1-800-756-4571

Fax: 1-877-749-4843

Invoices submitted for payment which do not contain CLIN or SLIN and the appropriate accounting classification reference number (ACRN) will be returned for correction. An invoice should be submitted for each line item listed in Section B above. See Clause G.1 above for details. DFAS should make payments from ACRN AA first and continue payments in accordance with subsequent ACRNs when multiple ACRNs are used.

Procurement Office Point of Contact (POC)

Naval Air Warfare Center - Aircraft Division - DODAAC: N68335
Attn: Andy C. Abram
Hwy 547, Bldg 120, Room 207
Lakehurst, NJ 08733
Phone: 732-323-4816
Fax: 732-323-2706
E-mail: andrew.abram@navy.mil

Patent Office Mailing Address

Office of Research & Technical Applications (ORTA).
Attn: Cheryl Monzon, Technical Director
Naval Facilities EXWC
1000 23rd Ave
Port Hueneme, CA 93043-4370
Phone: 805-982-1018
E-Mail: cheryl.monzon@navy.mil

The Contractor shall submit all invention disclosures and reports required by the Patent Rights clause of the contract to the Administrative Contracting Officer (ACO). The ACO will forward invention disclosures and reports directly to Corporate Counsel (Code 00CC). The invention disclosures can either be mailed or e-mailed. The Corporate Counsel will return the reports along with a recommendation to the ACO. The Corporate Counsel will represent the Contracting Officer with regard to invention reporting matters arising under this contract.

Government Technical Point of Contact

Office of Naval Facilities Engineering Command EXW - DoDAAC: N39430
Attn: Warren Bartel
1100 23 rd Ave, Code CI9
Port Hueneme, CA93043
Phone:805-982-1215
Email: warren.bartel@navy.mil

Alternate Technical Point of Contact

Office of Naval Facilities Engineering Command EXW - DoDAAC: N39430
Attn: Bradley Hunter
1100 23 rd. Ave, Code CI9
Port Hueneme, CA93043
Phone:805-982-5319
Email: bradley.hunter@navy.mil

The TPOC does not have express or implied authority to take any action, directly or indirectly, that would change any of the contract terms and conditions or to otherwise direct the accomplishment of effort which goes beyond the scope of the contractor's proposal. However, the TPOC may provide technical advice and/or discussion needed to clarify the direction of the effort and/or to monitor the progress and quality of performance. This is a completion type contract and the technical liaison is assigned for completion quality assurance only (except as otherwise allowable and required under FAR 52.246-9, Inspection of Research & Development). He/she is specifically not assigned the duties and responsibilities of a Contracting Officer Representative (COR/COTR). Section H of this contract sets forth the principles for changes under the contract.

Use the address of the TPOC as set forth above for distribution of reports and a copy of all data deliverables shall be uploaded to: <https://www.navysbirprogram.com/navydeliverables/>

NAVFAC SBIR Program Office:
Office of Naval Facilities Engineering Command
Attn: Gladis Aispuro
1100 23 rd. Ave, Code C19
Port Hueneme, CA93043
Phone:805-982-4427
Email: gladis.aispuro@navy.mil

Section H - Special Contract Requirements

CLAUSES INCORPORATED BY FULL TEXT

5252.211- 9510 CONTRACTOR EMPLOYEES (NAVAIR)(MAY 2011)

(a) In all situations where contractor personnel status is not obvious, all contractor personnel are required to identify themselves to avoid creating an impression to the public, agency officials, or Congress that such contractor personnel are Government officials. This can occur during meeting attendance, through written (letter or email) correspondence or verbal discussions (in person or telephonic), when making presentations, or in other situations where their contractor status is not obvious to third parties. This list is not exhaustive. Therefore, the contractor employee(s) shall:

- (1) Not by word or deed give the impression or appearance of being a Government employee;
- (2) Wear appropriate badges visible above the waist that identify them as contractor employees when in Government spaces, at a Government-sponsored event, or an event outside normal work spaces in support of the contract/order;
- (3) Clearly identify themselves as contractor employees in telephone conversations and in all formal and informal written and electronic correspondence. Identification shall include the name of the company for whom they work;
- (4) Identify themselves by name, their company name, if they are a subcontractor the name of the prime contractor their company is supporting, as well as the Government office they are supporting when participating in meetings, conferences, and other interactions in which all parties are not in daily contact with the individual contractor employee; and
- (5) Be able to provide, when asked, the full number of the contract/order under which they are performing, and the name of the Contracting Officer's Representative.

(b) If wearing a badge is a risk to safety and/or security, then an alternative means of identification maybe utilized if endorsed by the Contracting Officer's Representative and approved by the Contracting Officer.

(c) The Contracting Officer will make final determination of compliance with regulations with regard to proper identification of contractor employees.

SECTION H NOTES

Section H - SPECIAL CONTRACT REQUIREMENTS

H.1 The Contracting Officer is the only person authorized to approve changes in the requirements of this contract. The Contractor shall not comply with any order, direction or request of Government personnel unless it is issued in writing and signed by the Contracting Officer. This clause specifically prohibits a contractor from implementing changes pursuant to direction from anyone other than the Contracting Officer and that to do so is considered at their own risk and no adjustment will be made in the contract price to cover any increase in charges incurred as a result of such action.

Contractors should be advised that conversations, recommendations and/or suggestions made during the course of any briefings, technical reviews or face-to-face meetings conducted to discuss performance or progress are not considered direction. The name and address of the Procuring Contracting Officer (PCO) is:

Naval Air Warfare Center - Aircraft Division
Attn: Judith Dastis
Hwy 547, Bldg. 120, Room 207
Lakehurst, NJ 08733
Phone: 732-323-7339
Fax: 732-323-2706
Email: judith.dastis@navy.mil

H.2 Research and Analytical Work. The Contractor shall perform at least two-thirds of the research and/or analytical work under this contract unless approved in advance by the PCO.

H.3 Principal Investigator (PI) Primary Employment. The primary employment of the Principal Investigator, **David Stewart,** must be with the small business firm at the time of the award and during conduct of this contract.

H.4 Substitution of Personnel. The Contractor shall notify the Procuring Contracting Officer of any proposed change in the employment status of the Principal Investigator or any request to substitute for the principal investigator. Decisions regarding any changes will be based on whether the effort is substantially degraded by the removal/substitution of the Principal Investigator and will be evaluated on a case-by-case basis. The Contracting Officer will subsequently notify the contractor in writing of approval or disapproval. Government approval of any other personnel changes is not required.

H.5 US Business Utilization. The research or R&D work contained in this contract must be performed by the small business concern in the United States, meaning the 50 states, and any territories and/or possessions of the US, plus the District of Columbia. In addition, all entities awarded a contract under the SBIR program shall purchase only American-made products and equipment, to the extent practicable in keeping with the purposes of the program and the needs of the project.

H.6 (If Applicable) Rent -Free Use of Government Property. The contractor may use on a rent-free, non-interference basis the Government property accountable under Contract N/A. The contractor is responsible for scheduling the use of all property covered by the above contract and the Government is not responsible for conflicts, delays or disruptions to any work performed by the Contractor due to the use of any or all such property under this contract or any other contracts under which use of such property is authorized.

H.7 (If Applicable) Government-Furnished Property/Equipment/Information. The Government will furnish the Government property listed in Attachment N/A to the Contractor for use in the performance of the contract subject to the provisions of the Government Property clause referenced in the general provisions of this contract.

H.8 Exercise of Option. The Government, at any time after the effective date of the contract, may require the contractor to furnish Option Items 0004-0006 for delivery at the time and place and at the prices set forth herein. This option shall be exercised by a unilateral modification to this contract signed by the Contracting Officer. The unilateral right of the Government to invoke this option will expire six months following completion of the base effort. The right to invoke an option shall be maintained by the Government up until the last day of the expiration period and no advance notice is required. Turning on the option for Phase II preliminary efforts or inviting a contractor to submit a Final Phase II proposal does not obligate the Government to award a Phase II contract.

H.9 Phase II Selection Process. All Phase I award recipients may submit proposals for consideration for a Phase II contract award. The DoN utilizes a two-step process for determining Phase II award recipients.

STEP ONE – PHASE II INITIAL PROPOSAL AND PHASE I FINAL REPORT

Submission of the Phase II Initial Proposal is not required if the Phase I award recipient is not interested in pursuing a Phase II award. However, Phase I award recipients who fail to submit the Phase II Initial Proposal and Final Report (CLIN Item No. 0003) by NLT 1:00 PM ET on the date specified in CLIN ITEM No. 0003 of this contract WILL be eliminated from further consideration for a Phase II award under the topic. The government reserves the right to request Phase II proposals at a later date if it deems it beneficial to the government to do so.

Both documents must be submitted electronically at <https://www.navybirprogram.com/navydeliverables>. Please be aware you will need your firm's upload code in order to be able to submit these required documents. If you do not know your upload code, or have not set up an account, contact the POC listed on the website IMMEDIATELY. Do NOT wait until the day the documents are due. Documents submitted via any other method, or past the 1:00PM deadline described above, will not be accepted.*

*NOTE: if your due date falls on a weekend or holiday, there may be limited support if you have difficulty submitting your documents via the website. The website is supported only during normal business hours (typically Monday through Friday 0700 - 1530 ET). Please plan accordingly.

Phase I Final Report details

Format in accordance with the "Phase I Final Report Instructions and Template" at website http://www.navysbir.com/links_forms.htm

Phase II Initial Proposal details

Format in accordance with the "Initial Phase II Proposal Instructions and Template" at website http://www.navysbir.com/links_forms.htm

The Phase I Final Report and Phase II Initial Proposal will be used to evaluate the offeror's potential to progress to a workable prototype in Phase II and transition technology in Phase III. The criteria specified in Section 8.0 of the DoD Solicitation will be used to evaluate each submission, with a down select to Step Two – Phase II Full Proposals.

STEP TWO – PHASE II FULL PROPOSAL

At the end of the Step One evaluations, each offeror will be notified of the firm(s) selected to continue to Step Two. The firm(s) continuing to Step Two will be notified of the content and due date for submitting the Phase II Full Proposal to the DoD Submission Site.

H.10 Invention Disclosures and Reports. Patent Counsel will represent the Contracting Officer with invention reporting matters. **In accordance with the requirements of the Patent Rights clause of this contract, the Contractor shall submit "Report of Inventions and Subcontracts" (DD Form 882) along with written disclosure of inventions to the designated TPOC within 3 months after completion of the contract.** The TPOC will forward the report to the Patent Counsel listed in G.1 above. The Contractor shall also submit a copy of the disclosure to the contracts point of contact (both to the Procurement office and to the Administrative office) also designated herein

H.11 Incorporation of Representations and Certifications. All representations and certifications and other written statements made by the contractor in response to Section K incident to award of this contract are hereby incorporated by reference.

H.12 Proposal Pages with Proprietary Markings. The Government reserves the right to copy, use and/or disclose inside the Government, the technical portion of the SBIR proposal as needed to implement and administer the contract (See clause at 252.227-7016). This right is distinct from those rights established under 252.227-7018, Rights in Technical Data – SBIR Program concerning data produced under the contract.

H. 13 SBIR FUNDING AGREEMENT CERTIFICATION REQUIREMENT

Prior to exercising the option(s) under this contract, the Contractor will be required to submit the "SBIR Funding Agreement Certification" to the Technical Point of Contact (TPOC) and Contracting Officer (CO). The "SBIR Funding Agreement Certification" form and can be found at http://www.navysbir.com/links_forms.htm.

H. 14. SBIR FUNDING AGREEMENT CERTIFICATION – LIFE CYCLE CERTIFICATION

This certification must be submitted in the Wide Area Workflow Receipt and Acceptance (WAWF) system as an attachment to your invoice when submitting the final invoice. A copy of each certification must be submitted to the Technical Point of Contact (TPOC) at the time it is submitted in the WAWF system. The "SBIR Funding Agreement Certification-Life Cycle Certification" form can be found at http://www.navysbir.com/link_forms.htm.

Section I - Contract Clauses

CLAUSES INCORPORATED BY REFERENCE

52.202-1	Definitions	NOV 2013
52.203-3	Gratuities	APR 1984
52.203-5	Covenant Against Contingent Fees	MAY 2014
52.203-6	Restrictions On Subcontractor Sales To The Government	SEP 2006
52.203-7	Anti-Kickback Procedures	MAY 2014
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	MAY 2014
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	MAY 2014
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	OCT 2010
52.203-17	Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights	APR 2014
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	JAN 2017
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper	MAY 2011
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	OCT 2018
52.204-13	System for Award Management Maintenance	OCT 2018
52.204-19	Incorporation by Reference of Representations and Certifications.	DEC 2014
52.204-21	Basic Safeguarding of Covered Contractor Information Systems	JUN 2016
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities.	JUL 2018
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	OCT 2015
52.209-10	Prohibition on Contracting With Inverted Domestic Corporations	NOV 2015
52.211-5	Material Requirements	AUG 2000
52.215-2	Audit and Records--Negotiation	OCT 2010
52.215-8	Order of Precedence--Uniform Contract Format	OCT 1997
52.215-14	Integrity of Unit Prices	OCT 2010
52.215-17	Waiver of Facilities Capital Cost of Money	OCT 1997
52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns	OCT 2014
52.219-6	Notice Of Total Small Business Set-Aside	NOV 2011
52.219-8	Utilization of Small Business Concerns	OCT 2018
52.219-14	Limitations On Subcontracting	JAN 2017
52.222-3	Convict Labor	JUN 2003
52.222-21	Prohibition Of Segregated Facilities	APR 2015
52.222-26	Equal Opportunity	SEP 2016
52.222-37	Employment Reports on Veterans	FEB 2016
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	DEC 2010
52.222-50	Combating Trafficking in Persons	MAR 2015
52.222-54	Employment Eligibility Verification	OCT 2015
52.223-6	Drug-Free Workplace	MAY 2001

52.223-18	Encouraging Contractor Policies To Ban Text Messaging While Driving	AUG 2011
52.225-13	Restrictions on Certain Foreign Purchases	JUN 2008
52.227-1 Alt I	Authorization And Consent (Dec 2007) - Alternate I	APR 1984
52.227-2	Notice And Assistance Regarding Patent And Copyright Infringement	DEC 2007
52.227-10	Filing Of Patent Applications--Classified Subject Matter	DEC 2007
52.227-11	Patent Rights--Ownership By The Contractor	MAY 2014
52.229-3	Federal, State And Local Taxes	FEB 2013
52.232-2	Payments Under Fixed-Price Research And Development Contracts	APR 1984
52.232-8	Discounts For Prompt Payment	FEB 2002
52.232-9	Limitation On Withholding Of Payments	APR 1984
52.232-17	Interest	MAY 2014
52.232-23	Assignment Of Claims	MAY 2014
52.232-25	Prompt Payment	JAN 2017
52.232-33	Payment by Electronic Funds Transfer--System for Award Management	OCT 2018
52.232-39	Unenforceability of Unauthorized Obligations	JUN 2013
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	DEC 2013
52.233-1	Disputes	MAY 2014
52.233-3	Protest After Award	AUG 1996
52.233-4	Applicable Law for Breach of Contract Claim	OCT 2004
52.239-1	Privacy or Security Safeguards	AUG 1996
52.242-13	Bankruptcy	JUL 1995
52.243-1 Alt V	Changes--Fixed-Price (Aug 1987) - Alternate V	APR 1984
52.244-5	Competition In Subcontracting	DEC 1996
52.244-6	Subcontracts for Commercial Items	OCT 2018
52.246-9	Inspection Of Research And Development (Short Form)	APR 1984
52.246-16	Responsibility For Supplies	APR 1984
52.246-23	Limitation Of Liability	FEB 1997
52.249-1	Termination For Convenience Of The Government (Fixed Price) (Short Form)	APR 1984
52.249-9	Default (Fixed-Priced Research And Development)	APR 1984
52.253-1	Computer Generated Forms	JAN 1991
252.203-7000	Requirements Relating to Compensation of Former DoD Officials	SEP 2011
252.203-7001	Prohibition On Persons Convicted of Fraud or Other Defense-Contract-Related Felonies	DEC 2008
252.203-7002	Requirement to Inform Employees of Whistleblower Rights	SEP 2013
252.204-7000	Disclosure Of Information	OCT 2016
252.204-7003	Control Of Government Personnel Work Product	APR 1992
252.204-7005	Oral Attestation of Security Responsibilities	NOV 2001
252.204-7006	Billing Instructions	OCT 2005
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting	OCT 2016
252.204-7015	Notice of Authorized Disclosure of Information for Litigation Support	MAY 2016
252.209-7004	Subcontracting With Firms That Are Owned or Controlled By The Government of a Country that is a State Sponsor of Terrorism	OCT 2015
252.223-7006	Prohibition On Storage, Treatment, and Disposal of Toxic or Hazardous Materials	SEP 2014
252.225-7001	Buy American And Balance Of Payments Program-- Basic	DEC 2017

252.225-7012	Preference For Certain Domestic Commodities	DEC 2017
252.225-7048	Export-Controlled Items	JUN 2013
252.227-7016	Rights in Bid or Proposal Information	JAN 2011
252.227-7018	Rights in Noncommercial Technical Data and Computer Software--Small Business Innovation Research (SBIR) Program	FEB 2014
252.227-7019	Validation of Asserted Restrictions--Computer Software	SEP 2016
252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends	MAY 2013
252.227-7037	Validation of Restrictive Markings on Technical Data	SEP 2016
252.227-7039	Patents--Reporting Of Subject Inventions	APR 1990
252.232-7010	Levies on Contract Payments	DEC 2006
252.235-7011	Final Scientific or Technical Report	JAN 2015
252.243-7001	Pricing Of Contract Modifications	DEC 1991
252.243-7002	Requests for Equitable Adjustment	DEC 2012
252.247-7023	Transportation of Supplies by Sea	APR 2014

CLAUSES INCORPORATED BY FULL TEXT

52.217-7 OPTION FOR INCREASED QUANTITY--SEPARATELY PRICED LINE ITEM (MAR 1989)

The Government may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within six months following the completion of the Base effort. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)

(a) Definitions. As used in this clause--

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts--

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/content/table-small-business-size-standards/>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the rerepresentation required by paragraph (b) of this clause by validating or updating all its representations and Certification section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it [] is, [] is not a small business concern under NAICS Code [541715] assigned to contract number **N68335-19-C-0247**.

[Contractor to sign and date and insert authorized signer's name and title].

Signature	Date
Signer's Printed Name	Signer's Title

52.222-35 EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

(a) Definitions. As used in this clause--

“Active duty wartime or campaign badge veteran”, “Armed Forces service medal veteran”, “disabled veteran”, “protected veteran”, “qualified disabled veteran”, and “recently separated veteran” have the meanings given at FAR 22.1301.

(b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of \$150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JULY 2014)

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

52.244-2 SUBCONTRACTS (OCT 2010)

(a) Definitions. As used in this clause--

"Approved purchasing system" means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

"Consent to subcontract" means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

"Subcontract" means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.

(c) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that--

- (1) Is of the cost-reimbursement, time-and-materials, or labor- hour type; or
- (2) Is fixed-price and exceeds--

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts: [Enter subcontractor's names, if applicable]

(e)

(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Certified Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting--

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason certified cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (b), (c), or (d) of this clause.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination--

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

Lockheed-Martin

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <https://www.acquisition.gov/far/> or <http://farsite.hill.af.mil>.

252.227-7028 TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT (JUN 1995)

The Offeror shall attach to its offer an identification of all documents or other media incorporating technical data or computer software it intends to deliver under this contract with other than unlimited rights that are identical or substantially similar to documents or other media that the Offeror has produced for, delivered to, or is obligated to deliver to the Government under any contract or subcontract. The attachment shall identify--

(a) The contract number under which the data or software were produced;

(b) The contract number under which, and the name and address of the organization to whom, the data or software were most recently delivered or will be delivered; and

(c) Any limitations on the Government's rights to use or disclose the data or software, including, when applicable, identification of the earliest date the limitations expire.

252.235-7010 ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER (MAY 1995)

(a) The Contractor shall include an acknowledgment of the Government's support in the publication of any material based on or developed under this contract, stated in the following terms: This material is based upon work supported by the **Office of Naval Facilities Engineering Command EXW** under Contract No. **N68335-19-C-0247**.

(b) All material, except scientific articles or papers published in scientific journals, must, in addition to any notices or disclaimers by the Contractor, also contain the following disclaimer: Any opinions, findings and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the **Office of Naval Facilities Engineering Command EXW**.

CERTIFICATION PURSUANT TO SECTION 302 OF SARBANES-OXLEY ACT

I, George H. Kirby III, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ocean Power 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 officers 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 reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or other persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial 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: March 11, 2019

/s/ George H. Kirby III

George H. Kirby III

President and Chief Executive Officer

CERTIFICATION PURSUANT TO SECTION 302 OF SARBANES-OXLEY ACT

I, Matthew T. Shafer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ocean Power 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 officers 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 reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or other persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial 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: March 11, 2019

/s/ Matthew T. Shafer

Matthew T. Shafer
Chief Financial Officer

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Ocean Power Technologies, Inc. (the "Company") for the period ended January 31, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, George H. Kirby III, Chief Executive Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

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

Date: March 11, 2019

/s/ George H. Kirby III

George H. Kirby III
President and Chief Executive Officer

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Ocean Power Technologies, Inc. (the "Company") for the period ended January 31, 2019, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Matthew T. Shafer, Chief Financial Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

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

Date: March 11, 2019

/s/ Matthew T. Shafer

Matthew T. Shafer
Chief Financial Officer

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.
