

**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 SEPTEMBER 30, 2021

OR

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

COMMISSION FILE NUMBER 001-36379

**ENERGOUS CORPORATION**

*(Exact name of registrant as specified in its charter)*

**Delaware**  
*(State of incorporation)*

**46-1318953**  
*(I.R.S. Employer Identification No.)*

**3590 North First Street, Suite 210, San Jose, CA 95134**

*(Address of principal executive office) (Zip code)*

**(408) 963-0200**

*(Registrant's telephone number, including area code)*

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.00001 par value	WATT	The Nasdaq Stock Market

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.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
Emerging growth company	<input type="checkbox"/>		

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

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

As of November 11, 2021, there were 75,409,399 shares of our Common Stock, par value \$0.00001 per share, outstanding.

**ENERGIOUS CORPORATION**  
**FORM 10-Q**  
**FOR THE THREE MONTHS ENDED SEPTEMBER 30, 2021**

**INDEX**

<a href="#"><u>PART I - FINANCIAL INFORMATION</u></a>	3
<a href="#"><u>Item 1. Financial Statements</u></a>	3
<a href="#"><u>Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations</u></a>	20
<a href="#"><u>Item 3. Quantitative and Qualitative Disclosure About Market Risk</u></a>	25
<a href="#"><u>Item 4. Controls and Procedures</u></a>	25
<a href="#"><u>PART II – OTHER INFORMATION</u></a>	27
<a href="#"><u>Item 1. Legal Proceedings</u></a>	27
<a href="#"><u>Item 1A. Risk Factors</u></a>	27
<a href="#"><u>Item 2. Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities</u></a>	38
<a href="#"><u>Item 3. Defaults Upon Senior Securities</u></a>	38
<a href="#"><u>Item 4. Mine Safety Disclosures</u></a>	38
<a href="#"><u>Item 5. Other Information</u></a>	38
<a href="#"><u>Item 6. Exhibits</u></a>	38

---

PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

Energous Corporation  
BALANCE SHEETS

	As of	
	September 30, 2021 (unaudited)	December 31, 2020
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 28,282,188	\$ 50,729,661
Accounts receivable, net	176,683	75,850
Prepaid expenses and other current assets	708,776	636,702
Total current assets	<u>29,167,647</u>	<u>51,442,213</u>
Property and equipment, net	518,068	402,711
Operating lease right-of-use assets	699,202	1,293,291
Other assets	11,991	1,610
Total assets	<u>\$ 30,396,908</u>	<u>\$ 53,139,825</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 922,233	\$ 1,096,839
Accrued expenses	1,595,109	1,576,287
Accrued severance expense	1,102,832	-
Operating lease liabilities, current portion	765,209	825,431
Deferred revenue	12,000	12,000
Total current liabilities	<u>4,397,383</u>	<u>3,510,557</u>
Operating lease liabilities, long-term portion	-	576,762
Total liabilities	<u>4,397,383</u>	<u>4,087,319</u>
Commitments and contingencies		
Stockholders' equity:		
Preferred Stock, \$0.00001 par value, 10,000,000 shares authorized at September 30, 2021 and December 31, 2020; no shares issued or outstanding.	-	-
Common Stock, \$0.00001 par value, 200,000,000 shares authorized at September 30, 2021 and December 31, 2020, respectively; 63,155,272 and 61,292,412 shares issued and outstanding at September 30, 2021 and December 31, 2020, respectively.	633	614
Additional paid-in capital	352,977,756	344,024,638
Accumulated deficit	(326,978,864)	(294,972,746)
Total stockholders' equity	<u>25,999,525</u>	<u>49,052,506</u>
Total liabilities and stockholders' equity	<u>\$ 30,396,908</u>	<u>\$ 53,139,825</u>

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

**Energous Corporation**  
**CONDENSED STATEMENTS OF OPERATIONS**  
(Unaudited)

	For the Three Months Ended September		For the Nine Months Ended September	
	30,	30,	30,	30,
	2021	2020	2021	2020
Revenue	\$ 201,364	\$ 61,500	\$ 531,389	\$ 237,350
Operating expenses:				
Research and development	4,737,159	4,003,642	15,432,097	12,909,378
Sales and marketing	1,922,128	1,500,068	6,157,697	4,386,881
General and administrative	1,990,266	2,117,848	6,934,410	7,240,925
Severance expense	4,017,172	–	4,017,172	–
Cost of services revenue	–	–	–	126,539
Total operating expenses	12,666,725	7,621,558	32,541,376	24,663,723
Loss from operations	(12,465,361)	(7,560,058)	(32,009,987)	(24,426,373)
Other income:				
Interest income	835	3,221	3,869	67,134
Total other income	835	3,221	3,869	67,134
Net loss	\$ (12,464,526)	\$ (7,556,837)	\$ (32,006,118)	\$ (24,359,239)
Basic and diluted loss per common share	\$ (0.20)	\$ (0.18)	\$ (0.51)	\$ (0.62)
Weighted average shares outstanding, basic and diluted	63,014,246	41,861,614	62,225,801	39,116,532

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

**Energous Corporation**  
**CONDENSED STATEMENT OF CHANGES IN STOCKHOLDERS' EQUITY**

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount			
Balance at January 1, 2021	61,292,412	\$ 614	\$ 344,024,638	\$ (294,972,746)	\$ 49,052,506
Stock-based compensation - restricted stock units ("RSUs")	-	-	2,088,910	-	2,088,910
Stock-based compensation - employee stock purchase plan ("ESPP")	-	-	57,316	-	57,316
Issuance of shares for RSUs	627,412	6	(6)	-	-
Proceeds from contributions to the ESPP	-	-	117,013	-	117,013
Net loss	-	-	-	(8,525,763)	(8,525,763)
Balance March 31, 2021 (unaudited)	61,919,824	620	346,287,871	(303,498,509)	42,789,982
Stock-based compensation - restricted stock units ("RSUs")	-	-	1,471,826	-	1,471,826
Stock-based compensation - performance share units ("PSUs")	-	-	2,695,847	-	2,695,847
Stock-based compensation - employee stock purchase plan ("ESPP")	-	-	60,651	-	60,651
Issuance of shares for RSUs	298,641	3	(3)	-	-
Issuance of shares for PSUs	494,608	5	(5)	-	-
Proceeds from contributions to the ESPP	155,064	2	120,232	-	120,234
Net loss	-	-	-	(11,015,829)	(11,015,829)
Balance, June 30, 2021 (unaudited)	62,868,137	\$ 630	\$ 350,636,419	\$ (314,514,338)	\$ 36,122,711
Stock-based compensation - stock options	-	-	284,994	-	284,994
Stock-based compensation - restricted stock units ("RSUs")	-	-	1,010,990	-	1,010,990
Stock-based compensation - performance share units ("PSUs")	-	-	843,741	-	843,741
Stock-based compensation - employee stock purchase plan ("ESPP")	-	-	76,814	-	76,814
Issuance of shares for RSUs	287,135	3	(3)	-	-
Proceeds from contributions to the ESPP	-	-	124,801	-	124,801
Net loss	-	-	-	(12,464,526)	(12,464,526)
Balance, September 30, 2021 (unaudited)	<u>63,155,272</u>	<u>\$ 633</u>	<u>\$ 352,977,756</u>	<u>\$ (326,978,864)</u>	<u>\$ 25,999,525</u>

**Energous Corporation**  
**CONDENSED STATEMENT OF CHANGES IN STOCKHOLDERS' EQUITY (CONTINUED)**

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount			
Balance at January 1, 2020	33,203,806	\$ 333	\$ 282,153,201	\$ (263,140,660)	\$ 19,012,874
Stock-based compensation - restricted stock units ("RSUs")	-	-	2,321,820	-	2,321,820
Stock-based compensation - performance share units ("PSUs")	-	-	(88,348)	-	(88,348)
Stock-based compensation - employee stock purchase plan ("ESPP")	-	-	42,827	-	42,827
Issuance of shares for RSUs	396,559	4	(4)	-	-
Proceeds from contributions to the ESPP	-	-	113,059	-	113,059
Issuance of shares in an at-the-market ("ATM") offering, net of \$141,322 in issuance costs	4,351,652	44	5,506,836	-	5,506,880
Net loss	-	-	-	(8,597,736)	(8,597,736)
Balance, March 31, 2020 (unaudited)	37,952,017	\$ 381	\$ 290,049,391	\$ (271,738,396)	\$ 18,311,376
Stock-based compensation - restricted stock units ("RSUs")	-	-	2,028,599	-	2,028,599
Stock-based compensation - employee stock purchase plan ("ESPP")	-	-	41,308	-	41,308
Issuance of shares for RSUs	232,995	2	(2)	-	-
Proceeds from contributions to the ESPP	144,370	1	104,144	-	104,145
Issuance of shares in an at-the-market ("ATM") offering, net of \$236,528 in issuance costs	3,355,928	33	9,216,578	-	9,216,611
Net loss	-	-	-	(8,204,666)	(8,204,666)
Balance, June 30, 2020 (unaudited)	41,685,310	\$ 417	\$ 301,440,018	\$ (279,943,062)	\$ 21,497,373
Stock-based compensation - restricted stock units ("RSUs")	-	-	1,876,686	-	1,876,686
Stock-based compensation - employee stock purchase plan ("ESPP")	-	-	96,056	-	96,056
Issuance of shares for RSUs	361,608	4	(4)	-	-
Proceeds from contributions to the ESPP	-	-	121,692	-	121,692
Issuance of shares in an at-the-market ("ATM") offering, net of \$240,060 in issuance costs	1,016,026	10	3,007,048	-	3,007,058
Net loss	-	-	-	(7,556,837)	(7,556,837)
Balance, September 30, 2020 (unaudited)	43,062,944	\$ 431	\$ 306,541,496	\$ (287,499,899)	\$ 19,042,028

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

**Energous Corporation**  
**CONDENSED STATEMENTS OF CASH FLOWS**  
(Unaudited)

	For the Nine Months Ended September 30,	
	2021	2020
<b>Cash flows from operating activities:</b>		
Net loss	\$ (32,006,118)	\$ (24,359,239)
<b>Adjustments to reconcile net loss to:</b>		
<b>Net cash used in operating activities:</b>		
Depreciation and amortization	195,361	286,990
Stock based compensation	8,591,089	6,318,948
Changes in operating lease right-of-use assets	594,089	570,460
Bad debt expense	10,850	33,000
<b>Changes in operating assets and liabilities:</b>		
Accounts receivable	(111,683)	3,794
Prepaid expenses and other current assets	(72,074)	(331,367)
Accounts payable	(174,606)	(626,053)
Accrued severance expense	1,102,832	–
Accrued expenses	18,822	(818,306)
Other assets	(10,381)	–
Operating lease liabilities	(636,984)	(514,167)
<b>Net cash used in operating activities</b>	<b>(22,498,803)</b>	<b>(19,435,940)</b>
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	(310,718)	(7,302)
<b>Net cash used in investing activities</b>	<b>(310,718)</b>	<b>(7,302)</b>
<b>Cash flows from financing activities:</b>		
Net proceeds from the sales of common stock	–	14,723,491
Proceeds from contributions to employee stock purchase plan	362,048	338,896
<b>Net cash provided by financing activities</b>	<b>362,048</b>	<b>15,062,387</b>
<b>Net (decrease) in cash and cash equivalents</b>	<b>(22,447,473)</b>	<b>(4,380,855)</b>
Cash and cash equivalents - beginning	50,729,661	21,684,089
Cash and cash equivalents – ending	<u>\$ 28,282,188</u>	<u>\$ 17,303,234</u>
<b>Supplemental disclosure of non-cash financing activities:</b>		
At-the-market ("ATM") funds receivable	<u>\$ –</u>	<u>\$ 3,165,868</u>
Common stock issued for RSUs	<u>\$ 12</u>	<u>\$ 10</u>
Common stock issued for PSUs	<u>\$ 5</u>	<u>\$ –</u>

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

## **Note 1 - Business Organization, Nature of Operations**

Energous Corporation (the “Company”) was incorporated in Delaware on October 30, 2012. The Company has developed its WattUp® wireless power technology, consisting of proprietary semiconductor chipsets, software controls, hardware designs and antennas, that enables radio frequency (“RF”) based charging for electronic devices. The WattUp technology has a broad spectrum of capabilities, including near field wireless charging and at-a-distance wireless charging at various distances. The Company believes its proprietary WattUp technologies are well suited for many applications, including building and home automation, electronic shelf labels, industrial IoT sensors, surface and implanted medical devices, tracking devices, hearables, wearables, consumer electronics and public safety applications. Potential future applications include smartphones, commercial and industrial robotics, as well as automotive solutions and other devices with charging requirements that would otherwise require battery replacement or a wired power connection.

## **Note 2 – Liquidity and Management Plans**

During the three and nine months ended September 30, 2021, the Company recorded revenue of \$201,364 and \$531,389, respectively, and during the three and nine months ended September 30, 2020, the Company recorded \$61,500 and \$237,350, respectively. During the three and nine months ended September 30, 2021, the Company recorded net losses of \$12,464,526 and \$32,006,118, respectively, and during the three and nine months ended September 30, 2020, the Company recorded net losses of \$7,556,837 and \$24,359,239, respectively. Net cash used in operating activities was \$22,498,803 and \$19,435,940 for the nine months ended September 30, 2021 and 2020, respectively. The Company is currently meeting its liquidity requirements through the proceeds of securities offerings that raised net proceeds of \$53,556,202 during 2020, an at-the-market (“ATM”) offering during October 2021 (see Note 9 – Subsequent Events), proceeds from contributions to the employee stock purchase plan (“ESPP”), along with payments received from customers.

As of September 30, 2021, the Company had cash on hand of \$28,282,188. The Company expects that cash on hand as of September 30, 2021, together with anticipated revenues and with ATM financing during October 2021, will be sufficient to fund the Company’s operations into November 2022.

Research and development of new technologies is by its nature unpredictable. Although the Company intends to continue its research and development activities, there can be no assurance that its available resources and revenue generated from its business operations will be sufficient to sustain its operations. Accordingly, the Company expects to pursue additional financing, which could include offerings of equity or debt securities, bank financings, commercial agreements with customers or strategic partners, and other alternatives, depending upon market conditions. There is no assurance that such financing would be available on terms that the Company would find acceptable, or at all.

The market for products using the Company’s technology is broad and evolving, but remains nascent and unproven, so the Company’s success is dependent upon many factors, including customer acceptance of its existing products, technical feasibility of future products, regulatory approvals, the development of complementary technologies, competition and global market fluctuations.

In March 2020, the World Health Organization declared the outbreak of a novel coronavirus (COVID-19) as a pandemic. The pandemic continues to affect the United States and the world. The Company is monitoring the ongoing effects of COVID-19 (including continued outbreaks) and the related business and travel restrictions and changes to behavior intended to reduce its spread, and COVID-19’s impact on the Company’s operations, financial position, cash flows, inventory, supply chains, global regulatory approvals, purchasing trends, customer payments, and the industry in general, in addition to the impact on its employees. Due to the continuing developments and fluidity of this situation, the magnitude and duration of the pandemic and its impact on the Company’s operations and liquidity are still uncertain as of the date of this report.

## **Note 3 – Summary of Significant Accounting Policies**

### ***Basis of Presentation***

The accompanying financial statements are presented in U.S. dollars and have been prepared in accordance with accounting principles generally accepted in the United States of America (“US GAAP”), and pursuant to the accounting and disclosure rules and regulations of the U.S. Securities and Exchange Commission (“SEC”).

These unaudited condensed interim financial statements should be read in conjunction with the audited financial statements and notes thereto for the fiscal year ended December 31, 2020 included in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2020, filed with the SEC on March 24, 2021. The accounting policies used in preparing these unaudited condensed interim financial statements are consistent with those described in the Company’s December 31, 2020 audited financial statements.



***Use of Estimates***

The preparation of financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent liabilities at the date of the financial statements as well as the reported expenses during the reporting periods.

The Company's significant estimates and assumptions include the valuation of stock-based compensation instruments, recognition of revenue, the useful lives of long-lived assets, and income tax expense. Some of these judgments can be subjective and complex, and, consequently, actual results may differ from these estimates. Although the Company believes that its estimates and assumptions are reasonable, they are based upon information available at the time the estimates and assumptions were made. Actual results could differ from those estimates.

***Cash and Cash Equivalents***

The Company considers all short-term, highly liquid investments with an original maturity at the date of purchase of three months or less to be cash equivalents. The Company maintains cash balances that may be uninsured or in deposit accounts that exceed Federal Deposit Insurance Corporation limits. The Company maintains its cash deposits with major financial institutions.

***Revenue Recognition***

The Company follows Accounting Standards Update No. 2014-09, "Revenue from Contracts with Customers" (Topic 606).

In accordance with Topic 606, the Company recognizes revenue using the following five-step approach:

1. Identify the contract with a customer.
2. Identify the performance obligations in the contract.
3. Determine the transaction price of the contract.
4. Allocate the transaction price to the performance obligations in the contract.
5. Recognize revenue when the performance obligations are met or delivered.

The Company's revenue primarily consists of product development projects revenue. The Company also provided contract services for Dialog in 2020. During the three months and nine months ended September 30, 2021, the Company recognized \$201,364 and \$531,389, respectively, in product development projects revenue. During the three and nine months ended September 30, 2020, the Company recognized \$61,500 and \$107,350, respectively, in product development projects revenue. During the three and nine months ended September 30, 2021, the Company did not recognize any contract services revenue. During the three and nine months ended September 30, 2020, the Company recognized \$0 and \$130,000, respectively, in contract services revenue.

The Company records revenue associated with product development projects that it enters into with certain customers. In general, these product development projects are complex, and the Company does not have certainty about its ability to achieve the project milestones. The achievement of a milestone is dependent on the Company's performance obligation and requires acceptance by the customer. The Company recognizes this revenue at a point in time based on when the performance obligation is met. The payment associated with achieving the performance obligation is generally commensurate with the Company's effort or the value of the deliverable and is nonrefundable. The Company records the expenses related to these product development projects in research and development expense, in the periods such expenses were incurred.

The Company recognized contract services revenue from Dialog in 2020 over the period of time that the services are performed. The costs associated with this revenue were recognized as the services were performed and were included in cost of services revenue.

### Note 3 – Summary of Significant Accounting Policies, continued

#### Research and Development

Research and development expenses are charged to operations as incurred. For internally developed patents, all patent application costs are expensed as incurred as research and development expense. Patent application costs, which are generally legal costs, are expensed as research and development costs until such time as the future economic benefits of such patents become more certain. The Company incurred research and development costs of \$4,737,159 and \$4,003,642 for the three months ended September 30, 2021 and 2020, respectively, and the Company incurred research and development costs of \$15,432,097 and \$12,909,378 for the nine months ended September 30, 2021 and 2020, respectively.

#### Stock-Based Compensation

The Company accounts for equity instruments issued to employees, board members and contractors in accordance with accounting guidance that requires awards to be recorded at their fair value on the date of grant and are amortized over the vesting period of the award. The Company recognizes compensation costs on a straight-line basis over the requisite service period of the award, which is typically the vesting term of the equity instrument issued.

Under the Company's Employee Stock Purchase Plan ("ESPP"), employees may purchase a limited number of shares of the Company's common stock at a 15% discount from the lower of the closing market prices measured on the first and last days of each half-year period. The Company recognizes stock-based compensation expense for the fair value of the purchase options, as measured on the grant date.

#### Income Taxes

Tax benefits are recognized only for tax positions that are more likely than not to be sustained upon examination by tax authorities. The amount recognized is measured as the largest amount of benefit that is greater than 50 percent likely to be realized upon settlement. A liability for "unrecognized tax benefits" is recorded for any tax benefits claimed in the Company's tax returns that do not meet these recognition and measurement standards. As of September 30, 2021, no liability for unrecognized tax benefits was required to be reported. The guidance also discusses the classification of related interest and penalties on income taxes. The Company's policy is to record interest and penalties on uncertain tax positions as a component of income tax expense. No interest or penalties were recorded during the three or nine months ended September 30, 2021 or 2020. The Company files income tax returns with the United States and California governments.

#### Net Loss Per Common Share

Basic net loss per share is computed by dividing net loss available to common stockholders by the weighted average number of shares of common stock outstanding during the period. Diluted earnings per share is computed using the weighted average number of common shares and, if dilutive, potential common shares outstanding during the period. Potential common shares consist of the incremental common shares issuable upon the exercise of stock options and warrants (using the treasury stock method), the vesting of restricted stock units ("RSUs") and performance stock units ("PSUs") and the enrollment of employees in the ESPP. The computation of diluted loss per share excludes potentially dilutive securities of 5,843,167 and 5,990,698 for the three months ended September 30, 2021 and 2020, respectively, and 5,843,167 and 5,990,698 for the nine months ended September 30, 2021 and 2020, respectively, because their inclusion would be anti-dilutive.

Potentially dilutive securities outlined in the table below have been excluded from the computation of diluted net loss per share because the effect of their inclusion would have been anti-dilutive.

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2021	2020	2021	2020
Warrants issued to private investors	3,284,789	3,284,789	3,284,789	3,284,789
Options to purchase common stock	550,985	550,985	550,985	550,985
RSUs	1,183,951	1,533,247	1,183,951	1,533,247
PSUs	823,442	621,677	823,442	621,677
Total potentially dilutive securities	5,843,167	5,990,698	5,843,167	5,990,698

### **Note 3 – Summary of Significant Accounting Policies, continued**

#### ***Leases***

The Company determines if an arrangement is a lease at the inception of the arrangement. The Company applies the short-term lease recognition exemption and recognizes lease payments in profit or loss at lease commencement for facility or equipment leases that have a lease term of 12 months or less and do not include a purchase option whose exercise is reasonably certain. Operating leases are included in operating lease right-of-use (ROU) assets and operating lease liabilities.

ROU assets represent the right to use an underlying asset for the lease term, and lease liabilities represent the obligation to make lease payments arising from the lease. Operating lease ROU assets and liabilities are measured and recorded at the later of the adoption date, January 1, 2019, or the service commencement date based on the present value of lease payments over the lease term. The Company uses the implicit interest rate when readily determinable; however, most leases do not establish an implicit rate, so the Company uses an estimate of the incremental borrowing rate based on the information available at the time of measurement. Lease expense for lease payments is recognized on a straight-line basis over the lease term. See Note 4 – Commitments and Contingencies, *Operating Leases* for further discussion of the Company's operating leases.

#### ***Recent Accounting Pronouncements***

In December 2019, the FASB issued ASU No. 2019-12, "Income Taxes (Topic 740)," *Simplifying the Accounting for Income Taxes*. ASU 2019-12 removes certain exceptions under Topic 740 and improves consistent application by clarifying and amending existing guidance. This standard is effective for annual reporting periods beginning after December 15, 2020. The Company adopted this standard, and the adoption did not have a material impact on its financial statements.

In May 2021, the FASB issued ASU No. 2021-04, "Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation—Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40): Issuer's Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Written Call Options (a consensus of the FASB Emerging Issues Task Force)." ASU 2021-04 clarifies accounting for modifications or exchanges of equity-classified warrants. This standard is effective for annual reporting periods beginning after December 15, 2021. The Company does not believe the adoption of this standard will have a material impact on its financial statements.

#### ***Management's Evaluation of Subsequent Events***

The Company evaluates events that have occurred after the balance sheet date of September 30, 2021, through the date which the financial statements are available to be issued.

### **Note 4 – Commitments and Contingencies**

#### ***Operating Leases***

##### San Jose Lease

On July 1, 2019, the Company signed a new lease agreement for the lease of its office space at its corporate headquarters in San Jose, California for an additional three years. Upon expiration of the original lease on September 30, 2019, the new monthly lease payment starting October 1, 2019 was \$52,970 and is subject to annual escalations up to a maximum monthly lease payment of \$64,941.

## Note 4 – Commitments and Contingencies, continued

### Operating Leases, continued

#### Costa Mesa Lease

On July 15, 2019, the Company signed a new lease agreement for the lease of office space in Costa Mesa, California for an additional two years. Upon expiration of the original lease on September 30, 2019, the new monthly lease payment starting October 1, 2019 was \$9,773 and is subject to an annual escalation up to a maximum monthly lease payment of \$10,200.

On September 22, 2021, the Company signed a new Costa Mesa lease to lease a new, distinct office space in a different building with the same landlord. Per the lease, the stated commencement date is October 1, 2021 and concludes September 30, 2023, and the Company did not have control of the new office space until October 2021, at which time the Company recorded a new right-of-use lease asset of \$104,563 and operating lease liability of \$104,563. The new Costa Mesa lease has a total \$106,688 in lease payments with an initial monthly lease payment of \$4,369 starting October 1, 2021 and is subject to an annual escalation up to a maximum monthly lease payment of \$4,522.

#### Operating Lease Commitments

In February 2016, the FASB issued its final standard on lease accounting, ASU No. 2016-02, “Leases (Topic 842),” which superseded Topic 840, “Leases,” which was further modified in ASU No. 2018-10, “Codification Improvements” to clarify the implementation guidance. The new accounting standard was effective for the Company beginning on January 1, 2019 and required the recognition on the balance sheet of right-of-use assets and lease liabilities. The Company elected the optional transition method and adopted the new guidance on January 1, 2019 on a modified retrospective basis with no restatement of prior period amounts. The Company’s adoption of the new standard resulted in the recognition of right-of-use assets of \$414,426 and operating lease liabilities of \$485,747, with no material cumulative effect adjustment to equity as of the date of adoption. The Company anticipates having future total lease payments of \$779,292 during the period from the fourth quarter of 2021 to the third quarter of 2022. As of September 30, 2021, the company has total operating lease right-of-use assets of \$699,202, current portion operating lease liabilities of \$765,209 and long-term portion of operating lease liabilities of \$0. The weighted average remaining lease term is 1.0 years as of September 30, 2021.

A reconciliation of undiscounted cash flows to lease liabilities recognized as of September 30, 2021 is as follows:

	<b>Amount</b> <b>(unaudited)</b>
2021	194,823
2022	584,469
Total future lease payments	779,292
Present value discount (4% weighted average)	(14,083)
Total operating lease liabilities	765,209

#### Hosted Design Software Agreement

On June 25, 2015, the Company entered into a three-year agreement to license electronic design automation software in a hosted environment. Pursuant to the agreement, under which services began July 2015, the Company is required to remit quarterly payments in the amount of approximately \$101,000 with the last payment due March 30, 2018. On December 18, 2015, the agreement was amended to redefine the hardware and software configuration and the quarterly payments increased to approximately \$198,000. In July 2018, the Company renewed the agreement for an additional three years, and the Company was required to remit quarterly payments of approximately \$218,000. In June 2021, the Company renewed the agreement for an additional three years, and the Company is required to remit quarterly payments of approximately \$233,000 through the second quarter of 2024.

#### Litigations, Claims, and Assessments

The Company is from time to time involved in various disputes, claims, liens and litigation matters arising in the normal course of business. While the outcome of these disputes, claims, liens and litigation matters cannot be predicted with certainty, after consulting with legal counsel, management does not believe that the outcome of these matters will have a material adverse effect on the Company’s combined financial position, results of operations or cash flows.

## **Note 4 – Commitments and Contingencies, continued**

### ***MBO Bonus Plan***

On March 15, 2018, the Company's Board of Directors ("Board"), on the recommendation of the Board's Compensation Committee ("Compensation Committee"), approved the Energous Corporation MBO Bonus Plan ("Bonus Plan") for executive officers of the Company. To be eligible to receive a bonus under the Bonus Plan, an executive officer must be continuously employed throughout the applicable performance period, and in good standing, and achieve the performance objectives selected by the Compensation Committee.

Under the Bonus Plan, the Compensation Committee is responsible for selecting the amounts of potential bonuses for executive officers, the performance metrics used to determine whether any such bonuses will be paid and determining whether those performance metrics have been achieved.

During the three months ended September 30, 2021, the Company accrued \$304,377 in expense under the Bonus Plan, which will be paid during the fourth quarter of 2021. During the three months ended September 30, 2020, the Company accrued \$189,728 in expense under the Bonus Plan, which was paid during the fourth quarter of 2020. During the nine months ended September 30, 2021 and 2020, the Company recorded \$1,087,533 and \$867,248, respectively, in expense under the Bonus Plan. The expense under the Bonus Plan is recorded under operating expenses on the Company's Condensed Statement of Operations within each executive's department.

### ***Severance and Change in Control Agreement***

On March 15, 2018, the Compensation Committee approved a form of Severance and Change in Control Agreement ("Severance Agreement") that the Company may enter into with executive officers ("Executive").

Under the Severance Agreement, if an Executive is terminated in a qualifying termination, the Company agrees to pay the Executive six to 12 months of that Executive's monthly base salary. If Executive elects continued coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") the Company will pay the full amount of Executive's premiums under the Company's health, dental and vision plans, including coverage for the Executive's eligible dependents, for the six to 12 month period following the Executive's termination.

### ***Executive Transition Agreement – Stephen Rizzone***

On April 3, 2015, the Company entered into an Amended and Restated Executive Employment Agreement with Stephen R. Rizzone, the Company's President and Chief Executive Officer ("Employment Agreement").

The Employment Agreement effective as of January 1, 2015, has an initial term of four years and automatically renews each year after the initial term. The Employment Agreement provides for an annual base salary of \$365,000, and Mr. Rizzone is eligible to receive quarterly cash bonuses from the MBO Bonus Plan with a total target amount equal to 100% of his base salary based upon achievement of performance-based objectives established by the Board.

On July 9, 2021, the Company announced that Stephen R. Rizzone has retired from his position as the Company's President and Chief Executive Officer and as a member of the Board.

In connection with Mr. Rizzone's retirement, the Company and Mr. Rizzone entered into an Executive Transition Agreement ("Separation Agreement"), providing for continued employment through August 31, 2021. Upon his termination of employment, the Separation Agreement provides severance payments and benefits to Mr. Rizzone consistent with the terms of his existing employment agreement with the Company, including without limitation: compensation-based payments of \$1,460,000 in the aggregate, payable under a certain payment scheme as set forth therein, an additional lump sum cash payment of \$2,000,000, a pro-rated bonus payment for the two months of employment during the current quarterly bonus period payable at the same time bonus payments are made to other executives of the Company, settlement of deferred vested restricted stock units and an extension of the exercise periods of all stock options held by Mr. Rizzone until the one year anniversary of his termination date, and additional benefits related to Mr. Rizzone's medical insurance. In addition, the Company will pay-off all amounts owed under a lease agreement relating to a Company Car and Mr. Rizzone will receive the title to the vehicle. All compensation under the Separation Agreement will be subject to applicable withholding.

#### **Note 4 – Commitments and Contingencies, continued**

During the three months ended September 30, 2021, the Company recognized \$4,017,172 in severance expense associated with the separation agreement, including \$284,994 in additional stock-based compensation as a result of the extension of the exercise periods on the stock options. As of September 30, 2021, the Company had unpaid accrued severance expense of \$1,102,832.

##### ***Strategic Alliance Agreement***

In November 2016, the Company and Dialog Semiconductor plc (“Dialog”), a related party (see Note 7—Related Party Transactions), entered into a Strategic Alliance Agreement (“Alliance Agreement”) for the manufacture, distribution and commercialization of products incorporating the Company’s wire-free charging technology (“Licensed Products”). Pursuant to the terms of the Alliance Agreement, the Company agreed to engage Dialog as the exclusive supplier of the Licensed Products for specified fields of use, subject to certain exceptions (the “Company Exclusivity Requirement”). Dialog agreed to not distribute, sell or work with any third party to develop any competing products without the Company’s approval (the “Dialog Exclusivity Requirement”). In addition, both parties agreed on a revenue sharing arrangement and will collaborate on the commercialization of Licensed Products based on a mutually-agreed upon plan. Each party will retain all of its intellectual property.

The Alliance Agreement has an initial term of seven years and will automatically renew annually thereafter unless terminated by either party upon 180 days’ prior written notice. The Company may terminate the Alliance Agreement at any time after the third anniversary of the Agreement upon 180 days’ prior written notice to Dialog, or if Dialog breaches certain exclusivity obligations. Dialog may terminate the Alliance Agreement if sales of Licensed Products do not meet specified targets. The Company Exclusivity Requirement will terminate upon the earlier of January 1, 2021 or the occurrence of certain events relating to the Company’s pre-existing exclusivity obligations. The Company Exclusivity Requirement renews automatically on an annual basis unless the Company and Dialog agree to terminate the requirement.

On September 20, 2021, the Company was notified by Dialog, recently acquired by Renesas Electronics Corporation, that it was terminating the Alliance Agreement between the Company and Dialog. There is a wind down period included in the Alliance Agreement which will conclude in September 2024. During the wind down period, the Alliance Agreement’s terms will continue to apply to the Company’s products that are covered by certain existing customer relationships, except that the parties’ respective exclusivity rights have terminated.

#### **Note 5 – Stockholders’ Equity**

##### ***Authorized Capital***

The holders of the Company’s common stock are entitled to one vote per share. Holders of common stock are entitled to receive ratably such dividends, if any, as may be declared by the Board out of legally available funds. Upon the liquidation, dissolution or winding up of the Company, holders of common stock are entitled to share ratably in all assets of the Company that are legally available for distribution.

##### ***Financing***

On August 9, 2018, the Company filed a shelf registration statement on Form S-3 with the SEC, which became effective on August 17, 2018. This shelf registration statement allows the Company to sell, from time to time, any combination of debt or equity securities described in the registration statement up to aggregate proceeds of \$75,000,000. Pursuant to this registration statement, in March 2019 the Company raised \$23,319,156 (net of \$1,680,844 in issuance costs) from an offering of shares of its common stock and warrants to purchase 1,666,666 shares of common stock at an exercise price of \$10.00 per share. The Company also raised \$4,557,693 (net of \$339,081 in issuance costs) during the fourth quarter of 2019, \$5,506,880 (net of \$141,322 in issuance costs) during the first quarter of 2020 and \$9,216,611 (net of \$236,528 in issuance costs) during the second quarter of 2020, pursuant to this shelf registration statement.

## **Note 5 – Stockholders’ Equity, continued**

On September 15, 2020, the Company filed a shelf registration statement on Form S-3 with the SEC, which became effective on September 24, 2020, and contains two prospectuses: a base prospectus, which covers the offering, issuance and sale by the Company of up to \$75,000,000 of its common stock, preferred stock, debt securities, warrants to purchase our common stock, preferred stock or debt securities, subscription rights to purchase its common stock, preferred stock or debt securities and/or units consisting of some or all of these securities; and an at-the-market (“ATM”) sales agreement prospectus supplement covering the offering, or the ATM Program, issuance and sale by the Company of up to a maximum aggregate offering price of \$40,000,000 of its common stock that may be issued and sold under that certain sales agreement. The \$40,000,000 of common stock that may be offered, issued and sold under the sales agreement prospectus is included in the \$75,000,000 of the Company’s securities that may be offered, issued and sold by the Company under the base prospectus. Pursuant to this shelf registration statement, the Company sold shares which raised net proceeds of \$38,832,711 (net of \$1,167,289 in issuance costs) during the third and fourth quarters of 2020. The ATM Program was completed as of the end of 2020 and no further securities were sold during the three or nine months ended September 30, 2021.

### ***Common Stock Outstanding***

Our outstanding common shares typically include shares that are deemed delivered under US GAAP. Shares that are deemed delivered currently include shares that have vested, but have not yet been delivered, under tax-deferred equity awards, as well as shares purchased under our Employee Stock Purchase Program (“ESPP”) where actual transfer of shares normally occurs a few days after the completion of the purchase periods. There are no voting rights for shares that are deemed delivered under US GAAP until the actual delivery of shares takes place. On July 24, 2020, the stockholders of the Company approved an increase of the authorized share capital of the Company from 50,000,000 to 200,000,000 shares of common stock.

## **Note 6 – Stock-Based Compensation**

### ***Equity Incentive Plans***

#### 2013 Equity Incentive Plan

Effective on June 16, 2021, the Company’s stockholders approved the amendment and restatement of the 2013 Equity Incentive Plan to increase the number of shares reserved for issuance thereunder by 1,500,000 shares, bringing to 8,785,967 the total number of shares approved for issuance under that plan.

As of September 30, 2021, 2,537,844 shares of common stock remain eligible to be issued through equity-based instruments under the 2013 Equity Incentive Plan.

#### 2014 Non-Employee Equity Compensation Plan

Effective on May 26, 2020, the Company’s stockholders approved the amendment and restatement of the 2014 Non-employee Equity Compensation Plan to increase the number of shares reserved for issuance through equity-based instruments thereunder by 800,000 shares, bringing to 1,650,000 the total number of shares approved for issuance under that plan.

As of September 30, 2021, 879,922 shares of common stock remain eligible to be issued through equity-based instruments under the 2014 Non-Employee Equity Compensation Plan.

#### 2015 Performance Share Unit Plan

Effective on June 16, 2021, the Company’s stockholders approved the amendment and restatement of the 2015 Performance Share Unit Plan to increase the number of shares reserved for issuance through equity-based instruments thereunder by 1,700,000 shares, bringing to 5,110,104 the total number of shares approved for issuance under that plan.

As of September 30, 2021, 2,513,901 shares of common stock remain eligible to be issued through equity-based instruments under the 2015 Performance Share Unit Plan.

## Note 6 – Stock-Based Compensation, continued

### 2017 Equity Inducement Plan

On December 28, 2017, the Board approved the 2017 Equity Inducement Plan. Under the plan, the Board reserved 600,000 shares for the grant of RSUs. These grants will be administered by the Board or a committee of the Board. These awards will be granted to individuals who (a) are being hired as an employee by the Company or any subsidiary and such award is a material inducement to such person being hired; (b) are being rehired as an employee following a bona fide period of interruption of employment with the Company or any subsidiary; or (c) will become an employee of the Company or any subsidiary in connection with a merger or acquisition.

As of September 30, 2021, 111,679 shares of common stock remain available to be issued through equity-based instruments under the 2017 Equity Inducement Plan.

### Employee Stock Purchase Plan

In April 2015, the Company's Board approved the ESPP, under which 600,000 shares of common stock have been reserved for purchase by the Company's employees, subject to the approval by the stockholders. On May 21, 2015, the Company's stockholders approved the ESPP. Effective on June 16, 2021, the Company's stockholders approved the amendment and restatement of the Employee Stock Purchase Plan to increase the number of shares reserved for issuance through equity-based instruments thereunder by 700,000 shares, bring to 1,550,000 the total number of shares approved for issuance under that plan. Under the ESPP, employees may designate an amount not less than 1% but not more than 10% of their annual compensation for the purchase of Company shares. No more than 7,500 shares may be purchased by an employee under the ESPP during an offering period. An offering period shall be six months in duration commencing on or about January 1 and July 1 of each year. The exercise price of the option will be the lesser of 85% of the fair market of the common stock on the first business day of the offering period and 85% of the fair market value of the common stock on the applicable exercise date.

As of September 30, 2021, 685,374 shares of common stock remain eligible to be issued under the ESPP. Employees contributed \$124,801 through payroll withholdings to the ESPP as of September 30, 2021 for the current offering period that will end on December 31, 2021 and shares will be deemed delivered on that date.

### **Stock Option Activity**

The following is a summary of the Company's stock option activity during the nine months ended September 30, 2021:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Life In Years	Intrinsic Value
Outstanding at January 1, 2021	550,985	\$ 5.67	3.2	\$ 3,384
Granted	–	–	–	–
Exercised	–	–	–	–
Forfeited	–	–	–	–
Outstanding at September 30, 2021	550,985	\$ 5.67	0.9	\$ 11,279
Exercisable at January 1, 2021	550,985	\$ 5.67	3.2	\$ 3,384
Vested	–	–	–	–
Exercised	–	–	–	–
Forfeited	–	–	–	–
Exercisable at September 30, 2021	550,985	\$ 5.67	0.9	\$ 11,279

As of September 30, 2021, the unamortized value of options was \$0.

### **Restricted Stock Units ("RSUs")**

During the nine months ended September 30, 2021, the Compensation Committee granted various employees RSUs covering 979,385 shares of common stock under the 2013 Equity Incentive Plan. The awards vest over terms ranging from two to four years.



**Note 6 – Stock-Based Compensation, continued**

During the nine months ended September 30, 2021, the Compensation Committee and the Board of Directors granted various non-employees RSUs covering 172,091 shares of common stock under the 2014 Non-employee Equity Compensation Plan. The awards vest over terms ranging from one to four years

During the nine months ended September 30, 2021, the Board of Directors granted an employee RSUs covering 34,000 shares of common stock under the 2017 Equity Inducement Plan. The award vests over a term of four years.

As of September 30, 2021, the unamortized value of the RSUs was \$3,237,533. The unamortized amount will be expensed over a weighted average period of 1.5 years. A summary of the activity related to RSUs for the nine months ended September 30, 2021 is presented below:

	<u>Total</u>	<u>Weighted Average Grant Date Fair Value</u>
Outstanding at January 1, 2021	1,421,168	\$ 6.43
RSUs granted	1,185,476	\$ 3.67
RSUs forfeited	(209,505)	\$ 4.61
RSUs vested	(1,213,188)	\$ 5.51
Outstanding at September 30, 2021	<u>1,183,951</u>	<u>\$ 4.92</u>

**Performance Share Units (“PSUs”)**

Performance share units (“PSUs”) are grants that vest upon the achievement of certain performance goals. The goals are commonly related to the Company’s revenue and achievement of sales and marketing goals.

During the nine months ended September 30, 2021, the Compensation Committee of the Board of Directors granted various employees PSUs covering 1,465,713 shares of common stock under the Company’s 2015 Performance Share Unit Plan.

Amortization for all PSU awards was \$843,741 and \$3,539,588 for the three and nine months ended September 30, 2021, respectively, and \$0 and \$(88,348) for the three and nine months ended September 30, 2020, respectively.

As of September 30, 2021, the unamortized value of the PSUs was \$733,189. The unamortized amount will be expensed over a weighted average period of 0.3 years.

A summary of the activity related to PSUs for the nine months ended September 30, 2021 is presented below:

	<u>Total</u>	<u>Weighted Average Grant Date Fair Value</u>
Outstanding at January 1, 2021	–	\$ –
PSUs granted	1,465,713	4.23
PSUs forfeited	(147,663)	4.12
PSUs vested	(494,608)	4.51
Outstanding at September 30, 2021	<u>823,442</u>	<u>4.08</u>

**Employee Stock Purchase Plan (“ESPP”)**

The current offering period under the ESPP started on July 1, 2021 and will conclude on December 31, 2021. The recently completed offering period under the ESPP started on January 1, 2021 and concluded on June 30, 2021. During the year ended December 31, 2020, there were two offering periods. The first offering period began January 1, 2020 and concluded on June 30, 2020. The second offering period began on July 1, 2020 and concluded on December 31, 2020.

**Note 6 – Stock-Based Compensation, continued**

The weighted-average grant-date fair value of the purchase option for each designated share purchased under this plan was approximately \$1.05 and \$1.11 for the nine months ended September 30, 2021 and 2020, respectively, which represents the fair value of the option, consisting of three main components: (i) the value of the discount on the enrollment date, (ii) the proportionate value of the call option for 85% of the stock and (iii) the proportionate value of the put option for 15% of the stock. The Company recognized compensation expense for the plan of \$76,814 and \$96,056 for the three months ended September 30, 2021 and 2020, respectively, and the Company recognized compensation expense for the plan of \$194,781 and \$180,191 for the nine months ended September 30, 2021 and 2020, respectively.

The Company estimated the fair value of ESPP purchase options granted during the nine months ended September 30, 2021 and 2020 using the Black-Scholes option pricing model. The fair values of ESPP purchase options granted were estimated using the following assumptions:

	<u>Nine Months Ended September 30, 2021</u>	<u>Nine Months Ended September 30, 2020</u>
Stock price	\$1.80 - \$2.78	\$1.77 - \$2.96
Dividend yield	0%	0%
Expected volatility	95% - 143%	61% - 182%
Risk-free interest rate	0.05% - 0.09%	0.17% - 1.57%
Expected life	6 months	6 months

**Stock-Based Compensation Expense**

The following tables summarize total stock-based compensation costs recognized for the three and nine months ended September 30, 2021 and 2020:

	<u>Three Months Ended September 30,</u>		<u>Nine Months Ended September,</u>	
	<u>2021</u>	<u>2020</u>	<u>2021</u>	<u>2020</u>
Stock options	\$ 284,994	\$ –	\$ 284,994	\$ –
RSUs	1,010,990	1,876,686	4,571,726	6,227,105
PSUs	843,741	–	3,539,588	(88,348)
ESPP	76,814	96,056	194,781	180,191
<b>Total</b>	<b>\$ 2,216,539</b>	<b>\$ 1,972,742</b>	<b>\$ 8,591,089</b>	<b>\$ 6,318,948</b>

The total amount of stock-based compensation was reflected within the statements of operations as:

	<u>Three Months Ended September 30,</u>		<u>Nine Months Ended September 30,</u>	
	<u>2021</u>	<u>2020</u>	<u>2021</u>	<u>2020</u>
Research and development	\$ 1,207,415	\$ 922,858	\$ 4,873,925	\$ 3,055,885
Sales and marketing	565,367	385,171	2,046,728	1,189,964
General and administrative	158,763	664,713	1,385,442	2,073,099
Severance expense	284,994	–	284,994	–
<b>Total</b>	<b>\$ 2,216,539</b>	<b>\$ 1,972,742</b>	<b>\$ 8,591,089</b>	<b>\$ 6,318,948</b>

## **Note 7 – Related Party Transactions**

In November 2016, the Company and Dialog entered into an alliance agreement for the manufacture, distribution and commercialization of products incorporating the Company’s wire-free charging technology (See Note 4 – Commitments and Contingencies, *Strategic Alliance Agreement*). On November 7, 2016 and June 28, 2017, the Company and Dialog entered into securities purchase agreements under which Dialog acquired a total of 1,739,691 shares and received warrants to purchase up to 1,417,565 shares. As of September 30, 2021, none of the warrants remain outstanding. As of September 30, 2021, Dialog owns approximately 2.8% of the Company’s outstanding common shares. The Company recorded \$0 and \$0 for the three months ended September 30, 2021 and 2020, respectively, and \$0 and \$0 in for the nine months ended September 30, 2021 and 2020, respectively, in royalty revenue. Additionally, the Company recorded \$0 and \$0 in contract services revenue performed for Dialog during the three months ended September 30, 2021 and 2020, respectively, and the Company recorded \$0 and \$130,000 in contract services revenue performed for Dialog during the nine months ended September 30, 2021 and 2020, respectively. The Company recorded \$0 and \$0 in cost of services revenue associated with contract services performed for Dialog during the three months ended September 30, 2021 and 2020, respectively, and the Company recorded \$0 and \$126,539 in cost of services revenue associated with contract services performed for Dialog during the nine months ended September 30, 2021 and 2020, respectively. Additionally, the Company incurred \$225,000 and \$0 in chip development expense from Dialog, during the three months ended September 30, 2021 and 2020, respectively, and the Company incurred \$408,000 and \$0 in chip development expense from Dialog during the nine months ended September 30, 2021 and 2020, respectively.

On September 20, 2021, the Company was notified by Dialog, recently acquired by Renesas Electronics Corporation, that it was terminating the strategic alliance agreement between the Company and Dialog.

## **Note 8 – Customer Concentrations**

Two customers accounted for approximately 61% of the Company’s revenue for the three months ended September 30, 2021, and four customers accounted for approximately 81% of the Company’s revenue for the three months ended September 30, 2020. Four customers accounted for approximately 62% of the Company’s revenue for the nine months ended September 30, 2021, and three customers accounted for approximately 78% of the Company’s revenue for the nine months ended September 30, 2020. Two customers accounted for approximately 70% of the accounts receivable balance as of September 30, 2021. Four customers accounted for approximately 92% of the accounts receivable balance as of December 31, 2020.

## **Note 9 – Subsequent Events**

On October 4, 2021, the Company filed with the Securities and Exchange Commission (“SEC”) a prospectus supplement covering the issuance and sale of shares of the Company’s common stock having an aggregate offering price up to \$35,000,000 pursuant to the Company’s at-the-market offering program (the “ATM”).

As of October 31, 2021, the Company has sold 12,229,433 shares for gross proceeds of \$27,911,873 under the ATM, and a net of \$27,060,301 after approximately \$851,572 in broker commissions and issuance costs.

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

### Forward-Looking Statements

As used in this Quarterly Report on Form 10-Q, unless the context otherwise requires the terms "we," "us," "our," and "Energous" refer to Energous Corporation, a Delaware corporation. This report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, that are intended to be covered by the "safe harbor" created by those sections. Forward-looking statements, which are based on certain assumptions and describe our future plans, strategies and expectations, can generally be identified by the use of forward-looking terms such as "believe," "expect," "may," "will," "would," "should," "could," "seek," "intend," "plan," "continue," "estimate," "anticipate" or other comparable terms. All statements other than statements of historical facts included in this report regarding our strategies, prospects, financial condition, operations, costs, plans and objectives are forward-looking statements. Examples of forward-looking statements include, among others, statements we make regarding proposed business strategy; market opportunities; regulatory approval; expectations for current and potential business relationships; the impact of COVID-19 on our business and our response to it; and expectations for revenues, liquidity cash flows and financial performance, the anticipated results of our research and development efforts, the timing for receipt of required regulatory approvals and product launches. Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based only on our current beliefs, expectations and assumptions regarding the future of our business, future plans and strategies, projections, anticipated events and trends, the economy and other future conditions. Forward-looking statements relate to the future and are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict and generally outside of our control, so actual results and financial condition may differ materially from those indicated in the forward-looking statements. Important factors that could cause our actual results and financial condition to differ materially from those indicated in the forward-looking statements include, among others: our ability to develop commercially feasible technology; timing of customer implementations of our technology in consumer products; timing and receipt of regulatory approvals in the United States and internationally; our ability to find and maintain development partners; market acceptance of our technology; competition in our industry; our ability to protect our intellectual property; competition; and other risks and uncertainties described in the Risk Factors and in Management's Discussion and Analysis sections of our most recently filed Annual Report on Form 10-K and subsequently filed Quarterly Reports on Form 10-Q, including this Quarterly Report on Form 10-Q. We undertake no obligation to publicly update any of our forward-looking statements, whether as a result of new information, future developments or otherwise.

### Overview

We have developed our WattUp® wireless power technology, consisting of proprietary semiconductor chipsets, software controls, hardware designs and antennas, that enables radio frequency ("RF") based charging for electronic devices. The WattUp technology has a broad spectrum of capabilities, including near field wireless charging and at-a-distance wireless charging at various distances. We believe our proprietary WattUp technologies are well suited for many applications, including building and home automation, electronic shelf labels, industrial IoT sensors, surface and implanted medical devices, tracking devices, hearables, wearables, consumer electronics and public safety applications. Potential future applications include smartphones, commercial and industrial robotics, as well as automotive solutions and other devices with charging requirements that would otherwise require battery replacement or a wired power connection.

We believe our technology is innovative in its approach, in that we are developing solutions that charge electronic devices with an RF energy zone. We are developing solutions that deliver wire-free energy for near field charging applications and are also developing at-a-distance charging for distances up to 15 feet and beyond, some of which involve mobility charging.

To-date, we have developed multiple transmitters and receivers, including prototypes as well as partner production designs. The transmitters vary based on form factor, power specifications and frequencies, while the receivers are designed for applications including Bluetooth tracking tags, IoT sensors, hearing aids, electronic shelf labels, fitness bands, health sensors and devices, smartwatches, smartphones, smartglasses, industrial applications, keyboards, mice, headsets, earbuds, headphones, and more.

We have engagements with companies in the consumer electronics (CE), industrial and medical device markets that are in the both evaluation and product cycle pre-production stages of integrating WattUp-technology into devices being developed for the end-user. The first end product featuring our technology entered the market in 2019 and we expect additional WattUp enabled products to be announced as we move our business forward. The first end product

featuring our technology entered the market in 2019 and we expect our one Watt Powerbridge enabled transmitters to begin shipping for commercial IOT applications in the fourth quarter of 2021.

In December 2017, we announced Federal Communications Commission (“FCC”) certification of our first-generation WattUp Mid Field transmitter, which simultaneously powers multiple devices at a distance of up to three feet. This transmitter underwent rigorous, multi-month testing to verify that it met consumer safety and regulatory requirements. We believe this was the first certification of a Part 18 FCC-approved non-contact wireless charging transmitter, and that it establishes engineering design precedents that can streamline future regulatory approvals for our technology and for our customers’ end-products that employ our technology.

Our technology solution consists principally of transmitter controller ICs, power amplifier ICs and receiver ICs, as well as novel antenna designs, application prototypes and proprietary software algorithms. We submitted our first IC design for wafer fabrication in 2013 and since then have developed subsequent generations of transmitter and receiver ICs, antenna designs, and software algorithms. We have endeavored to optimize our technology by reducing size and cost, while at the same time increasing performance which enables our designs to be integrated into a broad range of devices. We have developed a “building block” approach that allows us to scale our product implementations by combining multiple transmitter building blocks or multiple receiver building blocks to meet the power, distance, size and cost requirements of customer applications requirements. Our technology is readily scalable because the same ICs that are used for contact-based charging can be used for distance-based charging solutions. We have developed two classes of chip solutions, a CMOS-based technology focused on low cost, small footprint and low power (1 watt) and a GaAs/GaN-based technology capable of delivering higher power (greater than 1 watt) with greater efficiency. We intend to continue to invest in improving product performance, efficiency, cost-performance, integration and miniaturization as required to reach multiple markets and expand the power-at-a-distance ecosystem, while maintaining a technology lead on potential competitors.

We sell evaluation kits to potential customers of our technology, to allow their respective engineering and product management departments to test and evaluate the technology. Our customers’ product development, technology integration and product introduction cycles occur over multiple quarters and generally span a period of more than a year to two years and can elapse before first evaluation and final shipment of the customer’s product. Once our customers begin to sell products to end customers that incorporate our technology, we would expect the commercialization cycle to shorten over time as the technology matures and market acceptance grows.

We maintain the rights to all intellectual property in our technology. We have implemented an aggressive intellectual property strategy and are continuing to pursue patent protection for new innovations. As of October 31, 2021, the Energous IP portfolio contained over 200 awarded patents in the United States, which are organized along five (5) critical paths to implementation that we believe a competitor may have to navigate to commercialize WPT technology. The paths are: Processing Algorithms, Antenna Designs, Transmitter and Receiver ASICs, Other Software Controls (e.g., Bluetooth Management and Hardware (e.g., Board Layout). In addition to the inventions covered by these patents, we have also identified specific inventions that we believe are novel and patentable. We intend to file for patent protection for the most valuable of these, and for other inventions that we expect to develop. This is a significant annual expense and we continually monitor the costs and benefits of each patent application and pursue those that we believe are most protective for our business and expand the core value of the Company.

Our seasoned management team has both private and public company experience, as well as relevant industry experience. In addition, we have identified and hired key engineering resources in the areas of IC development, antenna development, hardware, software and firmware engineering as well as integration and testing, which will allow us to continue to expand our technology and intellectual property and to meet our customers’ support requirements.

In November 2016 we entered into a Strategic Alliance Agreement with Dialog Semiconductor plc (“Dialog”), an industry leader in Bluetooth low energy semiconductors and power management semiconductors. In conjunction with the Strategic Alliance Agreement, Dialog manufactures and is the exclusive distributor of integrated circuit (“IC”) products that incorporate our designs and provides sales and logistic support to customers on a global basis.

On September 20, 2021, the Company was notified by Dialog, recently acquired by Renesas Electronics Corporation, that it was terminating the Alliance Agreement between the Company and Dialog. There is a wind down period included in the Alliance Agreement which will conclude in September 2024. During the wind down period, the Alliance Agreement's terms will continue to apply to the Company's products that are covered by certain existing customer relationships, except that the parties' respective exclusivity rights have terminated.

### ***Impact of COVID-19 on Our Business***

In March 2020, the World Health Organization declared the outbreak of COVID-19 as a pandemic. The pandemic continues to affect the United States and the world. We are monitoring the ongoing effects of COVID-19 (including continued outbreaks) and the related business and travel restrictions and changes to behavior intended to reduce its spread, and its impact on our operations, financial position, cash flows, inventory, supply chains, global regulatory approvals, purchasing trends, customer payments, and the industry in general, in addition to the impact on our employees.

The COVID-19 pandemic has delayed adoption of our technology by potential customers who have experienced workforce and supply chain disruptions, and who continue to evaluate their future prospects and business models, including partnerships with us. For example, in one case, the pandemic delayed the spring launch of a new product that incorporates our technology. Further delays in this or other products could result from the ongoing pandemic. These changes are due in part to changes in how business is conducted as a result of the pandemic, including state executive orders, local shelter-in-place orders, government-imposed quarantines and work-from-home policies in China, the United States, and elsewhere. We have implemented work-from-home policies for our employees that will likely be in place through the end of the year and possibly longer. The effects of state executive orders, local shelter-in-place orders, government-imposed quarantines and our work-from-home policies could negatively impact productivity, disrupt our research and development or other operations, and delay the planned launch of our customers' new products that incorporate our technology, the magnitude of which will depend, in part, on the length and severity of the continuing restrictions and other limitations on our ability to conduct our business in the ordinary course. Several vaccines have been approved for use since the fourth quarter of 2020, with vaccination rates increasing through early 2021. Several new variants of COVID-19 have emerged including the "delta" variant, which is now widespread, and are reported by health authorities to be more transmissible than other variants. Vaccines approved to date have lower efficacy in combating the transmission of some of these new variants, though vaccines appear to protect against severe illness. Due to the continuing developments and fluidity of this situation, the magnitude and duration of the pandemic and its impact on our operations and liquidity are still uncertain as of the date of this report.

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

#### *Revenue Recognition*

We follow Accounting Standards Update No. 2014-09, "Revenue from Contracts with Customers" (Topic 606).

In accordance with Topic 606, we recognize revenue using the following five-step approach:

1. Identify the contract with a customer.
2. Identify the performance obligations in the contract.
3. Determine the transaction price of the contract.
4. Allocate the transaction price to the performance obligations in the contract.
5. Recognize revenue when the performance obligations are met or delivered.

Our revenue currently consists of product development projects revenue and royalty revenue from Dialog. We also provided contract services for Dialog in 2020.

We record revenue associated with product development projects that we enter into with certain customers. In general, these product development projects are complex, and we do not have certainty about our ability to achieve the project milestones. The achievement of a milestone is dependent on our performance obligation and requires acceptance by the customer. We recognize this revenue at a point in time based on when the performance obligation is met. The payment associated with achieving the performance obligation is generally commensurate with our effort or the value of the deliverable and is nonrefundable. We record the expenses related to these product development projects in research and development expense, in the periods such expenses were incurred.

We record royalty revenue from our manufacturing partner, Dialog, and such royalty revenue is recognized at a point in time based on shipments from Dialog to its customers.

We recognized contract services revenue from Dialog over a period of time as the services are performed. The costs associated with this revenue were recognized as the services were performed and were included in cost of services revenue.

## **Results of Operations**

### **Operating Expenses**

Research and development expenses include costs associated with our efforts to develop our technology, including personnel compensation, consulting, engineering supplies and components, intellectual property costs, regulatory expense and general office expenses specifically related to the research and development department. Sales and marketing expenses include costs associated with selling and marketing our technology to our customers, including personnel compensation, public relations, graphic design, tradeshow, engineering supplies utilized by the sales team and general office expenses specifically related to the sale and marketing department. General and administrative expenses include costs for general and corporate functions, including personnel compensation, facility fees, travel, telecommunications, insurance, professional fees, consulting fees, general office expenses, and other overhead.

### **Three Months Ended September 30, 2021 and 2020**

*Revenue.* During the three months ended September 30, 2021 and 2020, we recorded revenue of \$201,364 and \$61,500, respectively.

*Operating Expenses and Loss from Operations.* Operating expenses are made up of research and development, sales and marketing, general and administrative expenses, severance expense and cost of services revenue. Losses from operations for the three months ended September 30, 2021 and 2020 were \$12,465,361 and \$7,560,058, respectively.

*Research and Development Costs.* Research and development costs were \$4,737,159 and \$4,003,642, respectively, for the three months ended September 30, 2021 and 2020. The increase of \$733,517 is primarily due to a \$317,652 increase in chip design, engineering supplies and components, a \$296,335 increase in compensation, consisting of a \$284,557 increase in stock-based compensation from the recognition of performance share units ("PSU") award expense and an \$11,778 increase in payroll costs and a \$68,824 increase in legal fees associated with patents and intellectual property.

*Sales and Marketing Costs.* Sales and marketing costs for the three months ended September 30, 2021 and 2020 were \$1,922,128 and \$1,500,068, respectively. The increase of \$422,060 is primarily due to a \$291,918 increase in compensation, consisting of a \$180,196 increase in stock-based compensation from the recognition of performance share units ("PSU") award expense and a \$111,722 increase in payroll costs, a \$46,745 increase in marketing and promotional expense and a \$23,838 increase in public relations, consulting and third party services.

*General and Administrative Expenses.* General and administrative costs for the three months ended September 30, 2021 and 2020 were \$1,990,266 and \$2,117,848, respectively. The decrease of \$127,582 is primarily due to a \$495,425 decrease in compensation, consisting of an \$505,950 decrease in stock-based compensation, primarily due to equity awards becoming fully vested during the previous year and from forfeited equity awards, offset by a \$10,525 increase in payroll costs, a \$180,198 decrease in annual stockholder meeting costs and stock transfer fees as a result of a special shareholder's meeting being held during the third quarter of 2020, partially offset by a \$241,154 increase in recruiting fees, a \$208,988 increase in legal and accounting fees, a \$57,169 increase in insurance premiums and a \$51,348 increase in investor relations, consulting and third party services.

*Severance Expense.* Severance expense for the three months ended September 30, 2021 was \$4,017,172 from the separation agreement of former President and Chief Executive Officer, Stephen Rizzone, consisting of expected cash payments and estimated payroll taxes of \$3,732,178 and stock-based compensation of \$284,994 from the extension of the exercise period for his stock options.

*Interest Income.* Interest income for the three months ended September 30, 2021 was \$835 as compared to interest income of \$3,221 for the three months ended September 30, 2020. The decrease of \$2,386 is primarily due to lower savings interest rates.

*Net Loss.* As a result of the above, net loss for the three months ended September 30, 2021 was \$12,464,526 as compared to \$7,556,837 for the three months ended September 30, 2020.

### ***Nine Months Ended September 30, 2021 and 2020***

*Revenue.* During the nine months ended September 30, 2021 and 2020, we recorded revenue of \$531,389 and \$237,350, respectively.

*Operating Expenses and Loss from Operations.* Operating expenses are made up of research and development, sales and marketing, general and administrative expenses, non-recurring severance expense and cost of services revenue. Losses from operations for the nine months ended September 30, 2021 and 2020 were \$32,009,987 and \$24,426,373, respectively.

*Research and Development Costs.* Research and development costs were \$15,432,097 and \$12,909,378, respectively, for the nine months ended September 30, 2021 and 2020. The increase of \$2,522,719 is primarily due to a \$1,947,909 increase in compensation, consisting of a \$1,818,040 increase in stock-based compensation from the recognition of PSU award expense and \$129,869 increase in payroll costs, a \$562,460 increase in engineering supplies, components and chip development costs due to project timing, a \$98,606 increase in consulting and third-party services expense and a \$68,891 increase in regulatory testing, partially offset by a \$112,522 decrease in rent expense and a \$96,989 decrease in depreciation.

*Sales and Marketing Costs.* Sales and marketing costs for the nine months ended September 30, 2021 and 2020 were \$6,157,697 and \$4,386,881, respectively. The increase of \$1,770,816 is primarily due to a \$1,424,508 increase in compensation, consisting of an \$856,764 increase in stock-based compensation from the recognition of PSU award expense and a \$567,743 increase in payroll costs from a higher headcount within the department, a \$110,124 increase in legal fees pertaining to marketing and trademarks, a \$108,799 increase in marketing and promotional costs, a \$91,015 increase in public relations, consulting and third-party services expense and a \$58,398 increase in engineering supplies used by the sales and marketing staff for customer demonstrations.

*General and Administrative Expenses.* General and administrative costs for the nine months ended September 30, 2021 and 2020 were \$6,934,410 and \$7,240,925, respectively. The decrease of \$306,515 is primarily due to a \$562,873 decrease in compensation, consisting of a \$687,657 decrease in stock-based compensation, primarily due to equity awards becoming fully vested during the previous year and from forfeited equity awards, offset by a \$124,784 increase in payroll costs, a \$152,107 decrease in accounting and audit fees, an \$80,334 decrease in board stipends, an \$80,192 decrease in annual meeting costs, partially offset by a \$241,184 increase in recruiting expense, \$190,038 increase in insurance premiums and \$161,384 increase in general corporate legal fees.

*Severance Expense.* Severance expense for the nine months ended September 30, 2021 was \$4,017,172 from the separation agreement of former President and Chief Executive Officer, Stephen Rizzone, consisting of expected cash payments and estimated payroll taxes of \$3,732,178 and stock-based compensation of \$284,994 from the extension of the exercise period for his stock options.

*Interest Income.* Interest income for the nine months ended September 30, 2021 was \$3,869 as compared to interest income of \$67,134 for the nine months ended September 30, 2020. The decrease of \$63,265 is primarily due to lower savings interest rates.

*Net Loss.* As a result of the above, net loss for the nine months ended September 30, 2021 was \$32,006,118 as compared to \$24,359,239 for the nine months ended September 30, 2020.

### ***Liquidity and Capital Resources***

During the nine months ended September 30, 2021 and 2020, we recorded revenue of \$531,389 and \$237,350, respectively. We incurred net losses of \$32,006,118 and \$24,359,239 for the nine months ended September 30, 2021 and 2020, respectively. Net cash used in operating activities was \$22,498,803 and \$19,435,940 for the nine months ended September 30, 2021 and 2020, respectively. We are currently meeting our liquidity requirements through the proceeds from securities offerings that raised net proceeds of \$53,556,202 during 2020, an at-the-market (“ATM”) offering during October 2021, proceeds from contributions to the employee stock purchase plan (“ESPP”), along with payments received from customers.



On October 4, 2021, the Company filed with the Securities and Exchange Commission (“SEC”) a prospectus supplement covering the issuance and sale of shares of the Company’s common stock having an aggregate offering price up to \$35,000,000 pursuant to the Company’s at-the-market offering program (the “ATM”).

As of October 31, 2021, the Company has sold 12,229,433 shares for gross proceeds of \$27,911,873 under the ATM, and a net of \$27,060,301 after approximately \$851,572 in broker commissions and issuance costs.

We believe our cash on hand as of September 30, 2021, together with anticipated revenues and with ATM financing during October 2021, will be sufficient to fund our operations into November 2022. Although we intend to continue our research and development activities, there can be no assurance that our available resources will be sufficient to enable us to generate revenues sufficient to sustain operations. Accordingly, we may pursue additional financing, which could include offerings of equity or debt securities, bank financings, commercial agreements with customers or strategic partners, and other alternatives, depending upon market conditions. There is no assurance that such financing would be available on terms that we would find acceptable, or at all.

During the nine months ended September 30, 2021, cash flows used in operating activities were \$22,498,803, consisting of a net loss of \$32,006,118, less non-cash expenses aggregating \$9,391,389 (principally stock-based compensation of \$8,591,089, decrease in amortization of operating lease right-of-use assets of \$594,089 and depreciation and amortization expense of \$195,361) and a \$1,102,832 increase in accrued severance expense, partially offset by a \$636,984 decrease in operating lease liabilities, a \$174,606 decrease in accounts payable, a \$111,683 increase in accounts receivable and a \$72,074 increase in prepaid expenses and other current assets.

During the nine months ended September 30, 2020, cash flows used in operating activities were \$19,435,940, consisting of a net loss of \$24,359,239, less non-cash expenses aggregating \$7,209,398 (principally stock-based compensation of \$6,318,948, amortization of operating lease right-of-use assets of \$570,460 and depreciation and amortization expense of \$286,990), an \$818,306 decrease in accrued expenses, a \$626,053 decrease in accounts payable, \$514,167 decrease in operating lease liabilities and a \$331,367 increase in prepaid expenses and other current assets.

During the nine months ended September 30, 2021 and 2020, cash flows used in investing activities were \$310,718 and \$7,302, respectively. The cash used in investing activities for the nine months ended September 30, 2021 consisted of the new website, as well as the purchases of new testing equipment and engineering software. The cash used in investing activities for the nine months ended September 30, 2020 consisted of the purchase of new lab equipment.

During the nine months ended September 30, 2021, cash flows provided by financing activities were \$362,048, which consisted of entirely of proceeds from contributions to the ESPP. During the nine months ended September 30, 2020, cash flows provided by financing activities were \$15,062,387, which consisted of \$14,723,491 in net proceeds from the sale of shares of our common stock to the public in an ATM offering and \$338,896 in proceeds from contributions to the ESPP.

Research and development of new technologies is, by its nature, unpredictable. Although we intend to continue our research and undertake development activities, there can be no assurance that our available resources will be sufficient to enable us to generate revenues sufficient to sustain operations.

Furthermore, since we have no committed source of financing, there can be no assurance that we will be able to raise capital as and when we need it to continue our operations.

### **Item 3. Quantitative and Qualitative Disclosure About Market Risk**

There has been no material change in our exposure to market risk during the three months ended September 30, 2021. Please refer to "Quantitative and Qualitative Disclosures about Market Risk" contained in Part II, Item 7A of our Form 10-K for the year ended December 31, 2020 for a discussion of our exposure to market risk.

### **Item 4. Controls and Procedures**

#### ***Evaluation of Disclosure Controls and Procedures***

We have established disclosure controls and procedures to ensure that material information relating to us is made known to the officers who certify our financial reports and the Board.

Based on their evaluation as of September 30, 2021, our principal executive and principal financial officers have concluded that these disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) were effective as of September 30, 2021 to provide reasonable assurance that information required to

be disclosed by us in reports that we file under the Exchange Act is recorded, processed, summarized, and reported, within the time periods specified in Securities and Exchange Commission rules and forms and that information required to be disclosed by us in our reports filed or submitted under the Exchange Act is accumulated and communicated to management, including our principal executive officer and our principal financial officer, as appropriate to allow timely decisions regarding required disclosures.

***Changes in Internal Control over Financial Reporting***

For the quarter ended September 30, 2021, there were no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Item 1. Legal Proceedings**

We are not currently a party to any pending legal proceedings that we believe will have a material adverse effect on our business or financial condition. We may, however, be subject to various claims and legal actions arising in the ordinary course of business from time to time.

**Item 1A. Risk Factors**

*We are subject to many risks that may harm our business, prospects, results of operations and financial condition. This discussion highlights some of the risks that might adversely affect our future operating results in material ways. We believe these are the risks and uncertainties that are the most important ones we face. We cannot be certain that we will successfully address these risks, and if we are unable to address them, our business may not grow, our stock price may suffer and you could lose the value of your investment in our company. Other risks and uncertainties that we do not currently recognize as material risks, or that are similar to risks faced by other companies in our industry, may also impair our business, prospects, results of operations and financial condition. The risks discussed below include forward-looking statements, and our actual results may differ substantially from what is in these forward-looking statements.*

**Risks Related to Our Financial Condition**

***We have no history of generating meaningful product revenue, and we may never achieve or maintain profitability.***

We have a limited operating history upon which investors may rely in evaluating our business and prospects. We have generated limited revenues to date, and as of September 30, 2021, we had an accumulated deficit of approximately \$327 million. Our ability to generate revenues and achieve profitability will depend on our ability to execute our business plan, complete the development and approval of our technology, incorporate the technology into products that customers wish to buy, and if necessary, secure additional financing. There can be no assurance that our technology will be adopted widely, that we will ever earn revenues sufficient to support our operations, or that we will ever be profitable. Furthermore, there can be no assurance that we will be able to raise capital as and when we need it to continue our operations. If we are unable to raise sufficient additional capital, we may be required to delay, reduce or severely curtail our research and development or other operations, which could have a material adverse effect on our business, operating results, financial condition, long-term prospects and ability to continue as a viable business. If we are unable to generate revenues of significant scale to cover our costs of doing business, our losses will continue and we may not achieve profitability, which could negatively impact the value of your investment in our securities.

***We may need additional financing to achieve our long-term business plans, and there is no guarantee that it will be available on acceptable terms, or at all.***

We may not have sufficient funds to fully implement our long-term business plans. It is likely that we will need to raise additional capital through new financings, even if we begin to generate meaningful commercial revenue. For example, new product development for business partners may require considerable expense in advance of substantial revenue for such products. Such financings could include equity financing, which may be dilutive to stockholders, or debt financing, which could restrict our ability to borrow from other sources. In addition, such securities may contain rights, preferences or privileges senior to those of current stockholders. As a result of economic conditions, general global economic uncertainty (including as a result of actual or perceived disruption caused by COVID-19, including the “delta” variant, or other infectious diseases), political change, and other factors, we do not know whether additional capital will be available when needed, or that, if available, we will be able to obtain additional capital on reasonable terms. If we are unable to raise additional capital due to the volatile global financial markets, general economic uncertainty or other factors, we may be required to curtail development of our technology or reduce operations as a result, or to sell or dispose of assets. Any inability to raise adequate funds on commercially reasonable terms could have a material adverse effect on our business, results of operations and financial condition, including the possibility that a lack of funds could cause our business to fail and liquidate with little or no return to investors.

## Risks Related to Our Technology and Products

### ***We may not be able to develop all the features we seek to include in our technology.***

We have developed commercial products, as well as working prototypes, that utilize our technology. Additional features and performance specifications we seek to include in our technology have not yet been developed. For example, some customer applications may require specific combinations of cost, footprint, efficiencies and capabilities at various frequencies, charging power levels and distances. We believe our research and development efforts will yield additional functionality and capabilities over time. However, there can be no assurance that we will be successful in achieving all the features we are targeting and our inability to do so may limit the appeal of our technology to consumers.

### ***We may be unable to demonstrate the commercial feasibility of the full capability of our technology.***

We have developed both commercial products, as well as working prototypes, that use our technology at differing power levels and charging distances, but additional research and development is required to realize the potential of our technology for applications at increasing power levels and distances that can be successfully integrated into commercial products. Research and development of new technologies is, by its nature, unpredictable. We could encounter unanticipated technical problems, the inability to identify products utilizing our technology that will be in demand with customers, getting our technology designed into those products, designing new products for manufacturability, regulatory hurdles and achieving acceptable price points for final products. Although we intend to undertake development efforts with commercially reasonable diligence, there can be no assurance that our available resources will be sufficient to enable us to develop our technology to the extent needed to create future revenues to sustain our operations.

Our technology must satisfy customer expectations and be suitable for them to use in consumer applications. Any delays in developing our technology that arise from factors of this sort would aggravate our exposure to the risk of having inadequate capital to fund the research and development needed to complete development of these products. Technical problems leading to delays would cause us to incur additional expenses that would increase our operating losses. If we experience significant delays in developing our technology and products based on it for use in potential commercial applications, particularly after incurring significant expenditures, our business may fail, and you could lose the value of your investment in our company. If we fail to develop practical and economical commercial products based on our technology, our business may fail and you could lose the value of your investment in our stock.

### ***The outbreak of health epidemics, such as COVID-19, has and may further adversely affect our business, results of operations and financial condition.***

Any outbreaks of contagious diseases and other adverse public health developments in countries where we, our customers and suppliers operate could have a material and adverse effect on our business, results of operations and financial condition. For example, COVID-19 pandemic has resulted in significant governmental measures being implemented to control the spread of the virus, including quarantines, travel restrictions, manufacturing restrictions, declarations of states of emergency, business shutdown and restrictions on the movement of employees in China, the United States and many other countries. A majority of our potential customers have a significant dependence on the Chinese manufacturing and supply chain infrastructure. We believe the COVID-19 pandemic has delayed adoption of our technology by potential customers who temporarily shut down their workforce and supply chain based in China. In the United States, COVID-19 has resulted in travel and other restrictions in order to reduce the spread of the disease, including executive orders in California and several other state and local orders across the country, which, among other things, direct individuals to shelter at their places of residence, direct businesses and governmental agencies to cease non-essential operations at physical locations, prohibit certain non-essential gatherings, and order cessation of non-essential travel. As a result of these developments, we have implemented work-from-home policies for our employees that will likely be in place until at least the second half of 2021. The effects of state executive orders, local shelter-in-place orders, government-imposed quarantines and our work-from-home policies could negatively impact productivity, disrupt our research and development or other operations and delay the planned launch of our customers' new products that incorporate our technology, the magnitude of which will depend, in part, on the length and severity of the continuing restrictions and other limitations on our ability to conduct our business in the ordinary course. Several vaccines have been approved for use since the fourth quarter of 2020, with vaccination rates increasing through the year 2021. Several new variants of COVID-19 have emerged and may be more transmissible than other variants. Vaccines approved to date have lower efficacy in combating the transmission of some of these new variants, though vaccines appear to protect against severe illness. Due to the continuing developments and fluidity of this situation, the magnitude and duration of the pandemic and its impact on our operations and liquidity are still uncertain as of the date of this report.

In addition, COVID-19 and any variants thereof, has resulted and may continue to result in a widespread health crisis that could contribute to increased market volatility and adversely affect the economies and financial markets of many countries, resulting in a global economic downturn that could affect interest in our products or demand by potential customers. Any of these events could materially and adversely affect our business, results of operations and financial condition. The extent of the impact will depend on future developments, which are highly uncertain and cannot be predicted.

***Expanding our business operations as we intend will impose new demands on our financial, technical, operational and management resources.***

To date we have operated primarily in the research and development phase of our business. If we are successful, we will need to expand our business operations, which will impose new demands on our financial, technical, operational and management resources. If we do not upgrade our technical, administrative, operating and financial control systems, or if unexpected expansion difficulties arise, including issues relating to our research and development activities, then retention of experienced scientists, managers and engineers could become more challenging and have a material adverse effect on our business, results of operations and financial condition.

***If products incorporating our technology are launched commercially but do not achieve widespread market acceptance, we will not be able to generate the revenue necessary to support our business.***

Market acceptance of a RF-based charging system as a preferred method for charging electronic devices will be crucial to our success. The following factors, among others, may affect the level of market acceptance of products in our industry:

- the price of products incorporating our technology relative to other products or competing technologies;
- user perceptions of the convenience, safety, efficiency and benefits of our technology;
- the effectiveness of sales and marketing efforts of our commercialization partners;
- the support and rate of acceptance of our technology and solutions with our development partners;
- press and blog coverage, social media coverage, and other publicity factors that are not within our control; and
- regulatory developments.

If we are unable to achieve or maintain market acceptance of our technology, and if related products do not win widespread market acceptance, our business will be significantly harmed.

***If products incorporating our technology are launched commercially, we may experience seasonality or other unevenness in our financial results in consumer markets or a long and variable sales cycle in enterprise markets.***

Our strategy depends on our customers developing successful commercial products using our technology and selling them into the consumer, enterprise and commercial markets. We need to understand procurement and buying cycles to be successful in licensing our technology. We anticipate it is possible that demand for our technology may vary in different segments of the consumer electronics market, such as hearing aids, wearables, toys, watches, accessories, laptops, tablet, mobile phones and gaming systems. Such consumer markets are often seasonal, with peaks in and around the December holiday season and the August-September back-to-school season. Enterprises and commercial customers may have annual or other budgeting and buying cycles that could affect us, and, particularly if we are designated as a capital improvement project, we may have a long or unpredictable sales cycle.

***Future products based on our technology may require the user to purchase additional products to use with existing devices. To the extent these additional purchases are inconvenient, the adoption of our technology under development or other future products could be slowed, which would harm our business.***

For rechargeable devices that utilize our receiver technology, the technology may be embedded in a sleeve, case or other enclosure. For example, products such as remote controls or toys equipped with replaceable AA size or other batteries would need to be outfitted with enhanced batteries and other hardware enabling the devices to be rechargeable by our system. In each case, an end user would be required to retrofit the device with a receiver and may be required to upgrade the battery technology used with the device (unless, for example, compatible battery technology and a receiver are built into the device). These additional steps and expenses may offset the convenience for users and discourage customers from licensing our technology. Such factors may inhibit adoption of our

technology, which could harm our business. We have not developed an enhanced battery for use in devices with our technology, and our ability to enable use of our technology with devices that require an enhanced battery will depend on our ability to develop a commercial version of such a battery that could be manufactured at a reasonable cost. If a commercially practicable enhanced battery of this nature is not developed, our business could be harmed, and we may need to change our strategy and target markets.

***Laboratory conditions differ from field conditions, which could reduce the effectiveness of our technology under development or other future products. Failures to move from laboratory to the field effectively would harm our business.***

When used in the field, our technology may not perform as expected based on performance under controlled laboratory conditions. For example, in the case of distance charging, a laboratory configuration of transmission obstructions will be arranged for testing, but in the field receivers may be obstructed in many different and unpredictable ways. These conditions may significantly diminish the power received at the receiver or the effective range of the transmitter. The failure of products using our technology to meet the expectations of users in the field could harm our business.

***Safety concerns and legal action by private parties may affect our business.***

We believe that our technology is safe. However, it is possible that we could discover safety issues with our technology or that some people may be concerned with RF-based charging in a manner that has occurred with some other wireless technologies as they were put into residential and commercial use, such as the safety concerns that were raised by some regarding the use of cellular telephones and other devices to transmit data wirelessly in close proximity to the human body. In addition, while we believe our technology is safe, users of our technology under development or other future products who suffer medical ailments may blame the use of products incorporating our technology, as occurred with a small number of users of cellular telephones. A discovery of safety issues relating to our technology could have a material adverse effect on our business and any legal action against us claiming our technology caused harm could be expensive, divert management and adversely affect us or cause our business to fail, whether or not such legal actions were ultimately successful.

***Our industry is subject to intense competition and rapid technological change, which may result in technology that is superior to ours. If we do not keep pace with changes in the marketplace and the direction of technological innovation and customer demands, our technology and products may become less useful or obsolete and our operating results will suffer.***

The consumer electronics industry in general, and the charging segments in particular, are subject to intense competition and rapidly evolving technologies. Because products incorporating our technology are expected to have long development cycles, we must anticipate changes in the marketplace and the direction of technological innovation and customer demands. To compete successfully, we will need to demonstrate the advantages of our products and technologies over established alternatives, and other emerging methods of power delivery. Traditional wall plug-in recharging remains an inexpensive alternative to our technology. Directly competing technologies such as inductive charging, magnetic resonance charging, conductive charging, ultrasound and other yet unidentified solutions may have greater consumer acceptance than the technology we have developed. Furthermore, some competitors may have greater resources than we have and may be better established in the market than we are. We cannot be certain which other companies may have already decided to or may in the future choose to enter our markets. For example, consumer electronics products companies may invest substantial resources in wireless power or other recharging technologies and may decide to enter our target markets. Successful developments of competitors that result in new approaches for recharging could reduce the attractiveness of our products and technologies or render them obsolete.

Our future success will depend in large part on our ability to establish and maintain a competitive position in current and future technologies. Rapid technological development may render our technology or future products based on our technology obsolete. Many of our competitors have more corporate, financial, operational, sales and marketing resources than we have, as well as more experience in research and development. We cannot assure you that our competitors will not develop or market technologies that are more effective or commercially attractive than our products or that would render our technologies and products obsolete. We may not have or the financial resources, technical expertise, marketing, distribution or support capabilities to compete successfully in the future. Our success will depend in large part on our ability to maintain a competitive position with our technologies.

Our competitive position also depends on our ability to:

- generate widespread awareness, acceptance and adoption by the consumer and enterprise markets of our technology under development and future products;
- design a product that may be sold at an acceptable price point;
- develop new or enhanced technologies or features that improve the convenience, efficiency, safety or perceived safety, and productivity of our technology under development and future products;
- properly identify customer needs and deliver new products or product enhancements to address those needs;
- limit the time required from proof of feasibility to routine production;
- limit the timing and cost of regulatory approvals;
- attract and retain qualified personnel;
- protect our inventions with patents or otherwise develop proprietary products and processes; and
- secure sufficient capital resources to expand both our continued research and development, and sales and marketing efforts.

If our technology does not compete well based on these or other factors, our business could be harmed.

***Our business is subject to data security risks, including security breaches.***

We collect, process, store and transmit substantial amounts of information, including information about our customers. We take steps to protect the security and integrity of the information we collect, process, store or transmit, but there is no guarantee that inadvertent or unauthorized use or disclosure will not occur or that third parties will not gain unauthorized access to this information despite such efforts. Security breaches, computer malware, computer hacking attacks and other compromises of information security measures have become more prevalent in the business world and may occur on our systems or those of our vendors in the future. Large Internet companies and websites have from time to time disclosed sophisticated and targeted attacks on portions of their websites, and an increasing number have reported such attacks resulting in breaches of their information security. We and our third-party vendors are at risk of suffering from similar attacks and breaches. Although we take steps to maintain confidential and proprietary information on our information systems, these measures and technology may not adequately prevent security breaches and we rely on our third-party vendors to take appropriate measures to protect the security and integrity of the information on those information systems. Because techniques used to obtain unauthorized access to or to sabotage information systems change frequently and may not be known until launched against us, we may be unable to anticipate or prevent these attacks. In addition, a party who is able to illicitly obtain a customer's identification and password credentials may be able to access the customer's account and certain account data.

Any actual or suspected security breach or other compromise of our security measures or those of our third-party vendors, whether as a result of hacking efforts, denial-of-service attacks, viruses, malicious software, break-ins, phishing attacks, social engineering or otherwise, could harm our reputation and business, damage our brand and make it harder to retain existing customers or acquire new ones, require us to expend significant capital and other resources to address the breach, and result in a violation of applicable laws, regulations or other legal obligations. Our insurance policies may not be adequate to reimburse us for direct losses caused by any such security breach or indirect losses due to resulting customer attrition.

We rely on email and other messaging services to connect with our existing and potential customers. Our customers may be targeted by parties using fraudulent spoofing and phishing emails to misappropriate passwords, payment information or other personal information or to introduce viruses through Trojan horse programs or otherwise through our customers' computers, smartphones, tablets or other devices. Despite our efforts to mitigate the effectiveness of such malicious email campaigns through product improvements, spoofing and phishing may damage our brand and increase our costs. Any of these events or circumstances could materially adversely affect our business, financial condition and operating results.

***Our strategic relationship with Dialog Semiconductor, a provider of electronics products, was terminated, and there can be no assurance that we will find a suitable replacement or be able to conduct the same activities internally.***

We were party to a strategic alliance agreement with Dialog Semiconductor, a provider of electronics products, pursuant to which we licensed our WattUp technology to Dialog and it became the exclusive provider of our technology. We were informed that Dialog Semiconductor was acquired by the Japanese chipmaker, Renesas Electronics, and that Dialog, under the control of Renesas Electronics will not be continuing our relationship. Due to the termination of the strategic relationship with Dialog, we will be required to seek an arrangement with another strategic partner, a manufacturing partner, or to develop internal capabilities, which will require a commitment of management's time and our financial resources to identify a new solution for our production and distribution. We may be unable to replace this agreement with one or more new strategic or manufacturing relationships or to develop internal capabilities to manufacture and sell our WattUp technology, which could result in manufacturing delays, increases in manufacturing or sales costs or reduced revenues.

#### **Risks Related to Our Intellectual Property and Other Legal Risks**

***It is difficult and costly to protect our intellectual property and our proprietary technologies, and we may not be able to ensure their protection.***

Our success depends significantly on our ability to obtain, maintain and protect our proprietary rights to the technologies used in products incorporating our technologies. Patents and other proprietary rights provide uncertain protections, and we may be unable to protect our intellectual property. For example, we may be unsuccessful in defending our patents and other proprietary rights against third party challenges. If we do not have the resources to defend our intellectual property, the value of our intellectual property and our licensed technology will decline. In addition, some companies that integrate our technology into their products may acquire rights in the technology that limit our business or increase our costs. If we are not successful in protecting our intellectual property effectively, our financial results may be adversely affected and the price of our common stock could decline.

***We depend upon a combination of patent, trade secrets, copyright and trademark laws to protect our intellectual property and technology.***

We rely on a combination of patents, trade secrets, copyright and trademark laws, nondisclosure agreements and other contractual provisions and technical security measures to protect our intellectual property rights. These measures may not be adequate to safeguard our technology. If they do not protect our rights adequately, third parties could use our technology, and our ability to compete in the market would be reduced. Although we are attempting to obtain patent coverage for our technology where available and where we believe appropriate, there are aspects of the technology for which patent coverage may never be sought or received. We may not possess the resources to or may not choose to pursue patent protection outside the United States or any or every country other than the United States where we may eventually decide to sell our future products. Our ability to prevent others from making or selling duplicate or similar technologies will be impaired in those countries in which we would have no patent protection. Although we have patent applications on file in the United States and elsewhere, the patents might not issue, might issue only with limited coverage, or might issue and be subsequently successfully challenged by others and held invalid or unenforceable.

Similarly, even if patents are issued based on our applications or future applications, any issued patents may not provide us with any competitive advantages. Competitors may be able to design around our patents or develop products that provide outcomes comparable or superior to ours. Our patents may be held invalid or unenforceable as a result of legal challenges or claims of prior art by third parties, and others may challenge the inventorship or ownership of our patents and pending patent applications. In addition, if we secure protection in countries outside the United States, the laws of some foreign countries may not protect our intellectual property rights to the same extent as do the laws of the United States. In the event a competitor infringes upon our patent or other intellectual property rights, enforcing those rights may be difficult and time consuming. Even if successful, litigation to enforce our intellectual property rights or to defend our patents against challenge could be expensive and time consuming and could divert our management's attention. We may not have sufficient resources to enforce our intellectual property rights or to defend our patents against a challenge.

Our strategy is to deploy our technology into the market by licensing patent and other proprietary rights to third parties and customers. Disputes with our licensees may arise regarding the scope and content of these licenses. Further, our ability to expand into additional fields with our technologies may be restricted by existing licenses or licenses we may grant to third parties in the future.



The policies we use to protect our trade secrets might not be effective in preventing misappropriation of our trade secrets by others. In addition, confidentiality agreements executed by our customers, employees, consultants and advisors might not be enforceable or might not provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure. Litigating a trade secret claim is expensive and time consuming, and the outcome is unpredictable. Moreover, our competitors may independently develop equivalent knowledge methods and know-how. If we are unable to protect our intellectual property rights, we may be unable to prevent competitors from using our own inventions and intellectual property to compete against us, and our business may be harmed.

***We may be subject to patent infringement or other intellectual property lawsuits that could be costly to defend.***

Because our industry is characterized by competing intellectual property, we may become involved in litigation based on claims that we have violated the intellectual property rights of others. Determining whether a product infringes a patent involves complex legal and factual issues, and the outcome of patent litigation actions is often uncertain. No assurance can be given that third party patents containing claims covering our products, parts of our products, technology or methods do not exist, have not been filed, or could not be filed or issued. Because of the number of patents issued and patent applications filed in our technical areas or fields (including some pertaining specifically to wireless charging technologies), our competitors or other third parties may assert that our products and technology and the methods we employ in the use of our products and technology are covered by United States or foreign patents held by them. In addition, because patent applications can take many years to issue and because publication schedules for pending applications vary by jurisdiction, there may be applications now pending which may result in issued patents that our technology under development or other future products would infringe. Also, because the claims of published patent applications can change between publication and patent grant, there may be published patent applications that may ultimately issue with claims that we infringe. There could also be existing patents that one or more of our technologies, products or parts may infringe and of which we are unaware. As the number of competitors in the market for wire-free power and alternative recharging solutions increases, and as the number of patents issued in this area grows, the possibility of patent infringement claims against us increases. Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have a material adverse effect on our ability to raise the funds necessary to continue our operations.

If we become subject to a patent infringement or other intellectual property lawsuit and if the relevant patents or other intellectual property were upheld as valid and enforceable and we were found to infringe or violate the terms of a license to which we are a party, we could be prevented from selling any infringing products of ours unless we could obtain a license or were able to redesign the product to avoid infringement. If we were unable to obtain a license or successfully redesign, we might be prevented from selling our technology under development or other future products. If there is a determination that we have infringed the intellectual property rights of a competitor or other person, we may be required to pay damages, pay a settlement, or pay ongoing royalties, or be enjoined. In these circumstances, we may be unable to sell our products or license our technology at competitive prices or at all, and our business and operating results could be harmed.

***We could become subject to product liability claims, product recalls, and warranty claims that could be expensive, divert management's attention and harm our business.***

Our business exposes us to potential liability risks that are inherent in the marketing and sale of products used by consumers. We may be held liable if our technology causes injury or death or is found otherwise unsuitable. While we believe our technology is safe, users could allege or possibly prove defects (some of which could be alleged or proved to cause harm to users or others) because we design our technology to perform complex functions involving RF energy, possibly in close proximity to users. A product liability claim, regardless of its merit or eventual outcome, could result in significant legal defense costs. The coverage limits of our insurance policies we may choose to purchase to cover related risks may not be adequate to cover future claims. If sales of products incorporating our technology increase or we suffer future product liability claims, we may be unable to maintain product liability insurance in the future at satisfactory rates or with adequate amounts. A product liability claim, any product recalls or excessive warranty claims, whether arising from defects in design or manufacture or otherwise, could negatively affect our sales or require a change in the design or manufacturing process, any of which could harm our reputation and business, harm our relationship with licensors of our products, result in a decline in revenue and harm our business.

In addition, if a product that we or a strategic partner design is defective, whether due to design or manufacturing defects, improper use of the product or other reasons, we or our strategic partner may be required to notify regulatory authorities and/or to recall the product. A required notification to a regulatory authority or recall could result in an investigation by regulatory authorities of products incorporating our technology, which could in

turn result in required recalls, restrictions on the sale of such products or other penalties. The adverse publicity resulting from any of these actions could adversely affect the perception of our customers and potential customers. These investigations or recalls, especially if accompanied by unfavorable publicity, could result in our incurring substantial costs, losing revenues and damaging our reputation, each of which would harm our business.

***If we are not able to secure advantageous license agreements for our technology, our business and results of operations will be adversely affected.***

We pursue the licensing of our technology as a primary means of revenue generation. Creating a licensing business relationship often takes a substantial effort, as we expect to have to convince the counterparty of the efficacy of our technology, meet design and manufacturing requirements, satisfy marketing and product needs, and comply with selection, review and contracting requirements. There can be no assurance that we will be able to gain access to potential licensing partners, or that they will ultimately decide to integrate our technology with their products. We may not be able to secure license agreements with customers on advantageous terms, and the timing and volume of revenue earned from license agreements will be outside of our control. If the license agreements we enter into do not prove to be advantageous to us, our business and results of operations will be adversely affected.

#### **Risks Related to Regulation of Our Business**

***Domestic and international regulators may deny approval for our technology, and future legislative or regulatory changes may impair our business.***

Our charging technology involves power transmission using radio frequency (RF) energy, which is subject to regulation by the Federal Communications Commission in the United States and by comparable regulatory agencies worldwide. It may also be subject to regulation by other agencies. Regulatory concerns include whether human exposure to radio frequency emissions are below specified thresholds. Higher levels of exposure require separate approval. For example, transmitting more power over a certain distance or transmitting power over a greater distance may require separate regulatory approvals. In addition, we design our technology to operate in a RF band that is also used for Wi-Fi routers and other wireless consumer electronics, and we also design it to operate at different frequencies as demanded for some customer applications. Applications at different frequencies may require separate regulatory approvals. Efforts to obtain regulatory approval for devices using our technology is costly and time consuming, and there can be no assurance that requisite regulatory approvals will be forthcoming. If approvals are not obtained in a timely and cost-efficient manner, our business and operating results could be materially adversely affected. In addition, legal or regulatory developments could impose additional restrictions or costs on us that could require us to redesign our technology or future products, or that are difficult or impracticable to comply with, all of which would adversely affect our revenues and financial results.

#### **Risks Related to Personnel**

***We are highly dependent on key members of our executive management team. Our inability to retain these individuals could impede our business plan and growth strategies, which could have a negative impact on our business and the value of your investment.***

Our ability to implement our business plan depends, to a critical extent, on the continued efforts and services of a very small number of key executives. If we lose the services of any of these persons, we could be required to expend significant time and money in the pursuit of replacements, which may result in a delay in the implementation of our business plan and plan of operations, including in particular the result of the appointments of Cesar Johnston and William Mannina as acting chief executive officer and acting chief financial officer, respectively, following the retirement of our former chief executive officer and president, Stephen Rizzone, and the resignation of our chief financial officer, Brian Sereda in July 2021. We can give no assurance that we could find satisfactory permanent replacements for these individuals on terms that would not be unduly expensive or burdensome to us. We do not currently carry any key-person life insurance that would help us recoup our costs in the event of the death or disability of any of these executives.

***We are subject to risks associated with our utilization of engineering consultants.***

To improve productivity and accelerate our development efforts while we build out our own engineering team, we may use experienced consultants to assist in selected development projects. We take steps to monitor and regulate the performance of these independent third parties. However, arrangements with third party service providers may make our operations vulnerable if these consultants fail to satisfy their obligations to us as a result of

their performance, changes in their own operations, financial condition, or other matters outside of our control. Effective management of our consultants is important to our business and strategy. The failure of our consultants to perform as anticipated could result in substantial costs, divert management's attention from other strategic activities, or create other operational or financial problems for us. Terminating or transitioning arrangements with key consultants could result in additional costs and a risk of operational delays, potential errors and possible control issues as a result of the termination or during the transition.

***Our success and growth depend on our ability to attract, integrate and retain high-level engineering talent.***

Because of the highly specialized and complex nature of our business, our success depends on our ability to attract, hire, train, integrate and retain high-level engineering talent. Competition for such personnel is intense because we compete for talent against many large profitable companies and our inability to adequately staff our operations with highly qualified and well-trained engineers could render us less efficient and impede our ability to develop and deliver a commercial product. Such a competitive market could put upward pressure on labor costs for engineering talent. We may incur significant costs to attract and retain highly qualified talent, and we may lose new employees to our competitors or other technology companies before we realize the benefit of our investment in recruiting and training them. Volatility or lack of performance in our stock price may also affect our ability to attract and retain qualified personnel.

**Risks Related to Ownership of Our Common Stock**

***We are a “smaller reporting company,” and the reduced disclosure requirements applicable to smaller reporting companies could make our common stock less attractive to investors.***

We are a “smaller reporting company,” meaning that we are not an investment company, an asset-backed issuer, or a majority-owned subsidiary of a parent company that is not a “smaller reporting company,” and have either: (i) a public float of less than \$250 million or (ii) annual revenues of less than \$100 million during the most recently completed fiscal year and a public float of less than \$700 million. As a “smaller reporting company,” we are subject to reduced disclosure obligations in our SEC filings compared to other issuers, including with respect to disclosure obligations regarding executive compensation in our periodic reports and proxy statements. Until such time as we cease to be a “smaller reporting company,” such reduced disclosure in our SEC filings may make it harder for investors to analyze our operating results and financial prospects.

If some investors find our common stock less attractive as a result of any choices to reduce future disclosure we may make, there may be a less active trading market for our common stock and our stock price may be more volatile.

***If we are unable to maintain effective internal control over financial reporting, investors may lose confidence in the accuracy of our financial reports.***

As a public company, we are required to maintain internal control over financial reporting and to report any material weaknesses in such internal controls. Although our management has determined that our internal control over financial reporting was effective as of September 30, 2021, we cannot assure you that we will not identify any material weakness in our internal control in the future.

We qualify as a “smaller reporting company” under new SEC rules such that we are not required to file an auditor attestation report. If we experience a material weakness in our internal controls, we may fail to detect errors in our financial accounting, which may require a financial statement restatement or otherwise harm our operating results, cause us to fail to meet our SEC reporting obligations or Nasdaq listing requirements, adversely affect our reputation, cause our stock price to decline or result in inaccurate financial reporting or material misstatements in our annual or interim financial statements. Further, if there are material weaknesses or failures in our ability to meet any of the requirements related to the maintenance and reporting of our internal controls over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports and that could cause the price of our common stock to decline. We could become subject to investigations by Nasdaq, the SEC or other regulatory authorities, which could require additional management attention and which could adversely affect our business.

In addition, our internal control over financial reporting will not prevent or detect all errors and fraud. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected.

***You might lose all of your investment.***

Investing in our common stock involves a high degree of risk. As an investor, you might never recoup all, or even part of, your investment and you may never realize any return on your investment. You must be prepared to lose all your investment.

***Our stock price is likely to continue to be volatile.***

The market price of our common stock has fluctuated significantly since our initial public offering in 2014. The price of our common stock is likely to continue to fluctuate significantly in response to many factors that are beyond our control, including:

- regulatory announcements;
- actual or anticipated variations in operating results;
- general economic conditions and perceptions of future economic growth prospectus in the economy at large, including as a result of the impact of the COVID-19 pandemic, including in particular the “delta” variant;
- the limited number of holders of our common stock;
- changes in the economic performance and/or market valuations of other technology companies;
- our announcements of significant strategic partnerships, regulatory developments and other events;
- announcements by other companies in our industry;
- articles published or rumors circulated by third parties regarding our business, technology or development partners;
- additions or departures of key personnel; and
- sales or other transactions involving our capital stock.

***We have not paid dividends in the past and have no immediate plans to pay dividends.***

We plan to reinvest all of our earnings, to the extent we have earnings, in order to market our products and technology and to cover operating costs and to otherwise become and remain competitive. We do not plan to pay any cash dividends with respect to our securities in the foreseeable future. We cannot assure you that we would, at any time, generate sufficient surplus cash that would be available for distribution to the holders of our common stock as a dividend.

***We expect to continue to incur significant costs as a result of being a public reporting company and our management will be required to devote substantial time to meet our compliance obligations.***

As a public reporting company, we incur significant legal, accounting and other expenses. We are subject to reporting requirements of the Securities Exchange Act of 1934, as amended, and rules subsequently implemented by the Securities and Exchange Commission that require us to establish and maintain effective disclosure controls and internal controls over financial reporting, as well as some specific corporate governance practices. Our management and other personnel are expected to devote a substantial amount of time to compliance initiatives associated with our public reporting company status. Those costs can be expected to increase as we emerged from emerging growth company status and will increase significantly if we no longer qualify as a smaller reporting company.

***We may be subject to securities litigation, which is expensive and could divert management attention.***

Our stock price has fluctuated in the past, reacting to news such as our past announcements of FCC approvals and it may be volatile in the future. In the past, companies that have experienced volatility in the market price of their securities have been subject to securities class action litigation, and we may be the target of litigation of this sort in the future. Securities litigation is costly and can divert management attention from other business concerns, which could seriously harm our business and the value of your investment in our company.

***Our ability to use Federal net operating loss carry forwards to reduce future tax payments may be limited if our taxable income does not reach sufficient levels.***

As of December 31, 2020, we had a Federal net operating loss (“NOL”) carryforward of approximately \$205,474,000. Under the U.S. Tax Code, NOLs arising in tax years ending on or before December 31, 2017 can generally be carried forward to offset future taxable income for a period of 20 years, and NOLs arising in tax years ending after December 31, 2017 can generally be carried forward indefinitely. Our ability to use our NOLs will be dependent on our ability to generate taxable income, and the NOLs that arose in tax years ending on or before December 31, 2017 could expire before we generate sufficient taxable income to take advantage of the NOLs. As of December 31, 2020, based on our history of operating losses it is possible that a portion of our NOLs will not be fully realizable.

***Our charter documents and Delaware law may inhibit a takeover that stockholders consider favorable.***

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

- authorize our board of directors to issue preferred stock without stockholder approval and to designate the rights, preferences and privileges of each class; if issued, such preferred stock would increase the number of outstanding shares of our capital stock and could include terms that may deter an acquisition of us;
- limit who may call stockholder meetings;
- do not permit stockholders to act by written consent;
- do not provide for cumulative voting rights; and
- provide that all vacancies may be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum.

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

## **General Risk Factors**

***An active trading market for our common stock may not be maintained.***

Our stock is currently traded on The Nasdaq Stock Market, but we can provide no assurance that we will be able to maintain an active trading market on The Nasdaq Stock Market or any other exchange in the future, including if we no longer meet the applicable listing standards of Nasdaq. If an active market for our common stock is not maintained, or if we no longer qualify to be listed on Nasdaq, it may be difficult for our stockholders to sell or purchase shares on such a national securities exchange, or otherwise. An inactive market may also impair our ability to raise capital to continue to fund operations by selling shares and impair our ability to acquire other companies or technologies by using our shares as consideration.

*If securities or industry analysts do not publish research or reports about our business, or publish negative reports about our business, our stock price and trading volume could decline.*

The trading market for our common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business. We do not have any control over these analysts. There can be no assurance that analysts will continue to cover us or provide favorable coverage. If one or more of the analysts who cover us downgrade our stock or change their opinion of our stock, our stock price would likely decline. If one or more of these analysts cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our stock price or trading volume to decline.

**Item 2. Sales of Unregistered Securities; Use of Proceeds**

Not applicable.

**Item 3. Defaults Upon Senior Securities**

Not applicable.

**Item 4. Mine Safety Disclosures**

Not applicable.

**Item 5. Other Information**

Not applicable.

**Item 6. Exhibits**

The exhibits required to be filed as a part of this report are listed in the Exhibit Index.

## EXHIBIT INDEX

<b>Exhibit Number</b>	<b>Description</b>
10.1	<a href="#">Second Amendment to lease dated September 22, 2021 by and between the Registrant and the Irvine Company, LLC (filed herewith)</a>
31.1	<a href="#">Certification of Periodic Report by Acting Chief Executive Officer (principal executive officer) pursuant to Rule 13a-14(a)/15d-14a</a>
31.2	<a href="#">Certification of Periodic Report by the Chief Financial Officer (principal financial officer) pursuant to Rule 13a-14(a)/15d-14a</a>
32.1	<a href="#">Certification of Periodic Report by Acting Chief Executive Officer (principal executive officer) and the Chief Financial Officer (principal financial officer) pursuant to U.S.C. Section 1350</a>
101.INS	Inline XBRL Instance Document (filed herewith)
101.SCH	Inline XBRL Taxonomy Extension Schema Document (filed herewith)
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document (filed herewith)
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document (filed herewith)
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document (filed herewith)
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document (filed herewith)
104	Cover Page Interactive Data File (formatted as inline XBRL with applicable taxonomy extension information contained in Exhibits 101)

+ This certification shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) or otherwise subject to the liability of that Section, nor shall it be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended or the Exchange Act.

**SIGNATURE**

Pursuant to the requirements of Section 13 or 15(d) 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.

**ENERGOUS CORPORATION**

(Registrant)

Date: November 15, 2021

By: /s/ Cesar Johnston

Name: Cesar Johnston

Title: Acting Chief Executive Officer  
(Principal Executive Officer)

Date: November 15, 2021

By: /s/ William Mannina

Name: William Mannina

Title: Acting Chief Financial Officer  
(Principal Financial and Accounting Officer)



**SECOND AMENDMENT TO LEASE****I. PARTIES AND DATE.**

This Second Amendment to Lease ("**Amendment**") dated September 22, 2021, by and between **THE IRVINE COMPANY LLC**, a Delaware limited liability company ("**Landlord**"), and **ENERGOUS CORPORATION**, a Delaware corporation ("**Tenant**").

**II. RECITALS.**

Landlord and Tenant entered into an office space lease dated May 31, 2017, which lease was amended by a First Amendment to Lease dated July 15, 2019 (as amended, the "**Lease**") for space consisting of 3,054 rentable square feet in a building ("**Building**") located at 3200 Park Center Drive, Suite 380 ("**Suite 380**"), Costa Mesa, California (the "**Premises**").

Landlord and Tenant each desire to modify the Lease to substitute the original Premises with approximately 1,387 rentable square feet of space known as Suite No. 690 ("**Suite 690**") on the sixth floor of the building located at 3200 Bristol Street, Costa Mesa, California, extend the Lease Term, adjust the Basic Rent, and make such other modifications as are set forth in "III. MODIFICATIONS" next below.

**III. MODIFICATIONS.**

A. Basic Lease Provisions. The Basic Lease Provisions are hereby amended as follows:

1. Effective as of the Commencement Date for Suite 690, Item 2 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

"2. Premises: Suite No. 690  
Address of Building: 3200 Bristol Street, Costa Mesa, CA 92626  
Project: Pacific Arts Plaza  
(The Premises are more particularly described in Section 2.1.)"

2. Item 4 is hereby amended by adding the following:

"Commencement Date for Suite 690: October 1, 2021"

3. Item 5 is hereby deleted in its entirety and the following substituted in lieu thereof:

"5. Lease Term: 24 months following the Commencement Date for Suite 690, plus such additional days as may be required to cause this Lease to expire on the final day of the calendar month."

4. Effective as of the Commencement Date for Suite 690, Item 6 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

"6. Basic Rent:

Months of Term or Period	Monthly Rate Per Rentable Square Foot	Monthly Basic Rent
10/1/21 to 9/30/22	\$3.15	\$4,369.05
10/1/22 to 9/30/23	\$3.26	\$4,521.62"

5. Effective as of the Commencement Date for Suite 690, Item 7 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

"7. Property Tax Base: The Property Taxes per rentable square foot incurred by Landlord and attributable to the twelve-month period ending June 30, 2022 ("the "**Base Year**").

Project Cost Base: The Project Costs per rentable square foot incurred by Landlord and attributable to the Base Year.

Expense Recovery Period: Every 12-month period during the Term (or portion thereof during the first and last Lease years) ending June 30."

6. Effective as of the Commencement Date for Suite 690, Item 8 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

"8. Floor Area of Premises: approximately 1,387 rentable square feet (Landlord and Tenant stipulate and agree that the Floor Area of Premises is correct.)

Floor Area of Building: approximately 126,420 rentable square feet"

7. Effective as of the Commencement Date for Suite 690, Item 11 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

"11. Parking: 5 parking passes in accordance with the provisions set forth in **Exhibit F** to this Lease."

8. Effective as of the Commencement Date for Suite 690, Tenant's address for notices in Item 12 shall be amended by deleting "3200 Park Center Drive, Suite 380" and substituted in lieu thereof shall be "3200 Bristol Street, Suite 690".

B. Termination as to Suite 380. The parties agree that Tenant's lease as to Suite 380 shall naturally expire on August 31, 2021 (the "**Termination Date for Suite 380**"), provided that such termination shall not relieve Tenant of (i) any rent or other charges owed by Tenant, or other obligations required of Tenant, as are set forth in the Lease from and after the date of this Amendment through and including the Termination Date for Suite 380, (ii) any obligations which are set forth in this Amendment, and (iii) any indemnity or hold harmless obligations set forth in the Lease as to Suite 380. Tenant shall quit and surrender possession of Suite 380 to Landlord on or before the Termination Date for Suite 380 as required by the provisions of Section 15.2 of the Lease.

C. Security Deposit. No additional security deposit shall be required in connection with this Amendment.

D. Operating Expenses. Notwithstanding any contrary provision in the Lease, Landlord hereby agrees that Tenant shall not be obligated to pay Landlord for Operating Expenses accruing during the 12-month period commencing as of the Commencement Date for Suite 690.

E. Signage. Landlord, at its sole cost and expense, shall affix and maintain a sign (restricted solely to Tenant's name as set forth herein) adjacent to the entry door of Suite 690 and shall add an identification strip in the lobby directory of the Building. Any subsequent changes to that initial signage shall be made at Tenant's expense in accordance with Section 5.2 of the Lease.

F. Floor Plan of Premises. Effective as of the Commencement Date for Suite 690, Exhibit A attached to the Lease shall be deleted and Exhibit A attached to this Amendment shall be substituted in lieu thereof.

G. Parking. Notwithstanding any contrary provision in the Lease, effective as of the Commencement Date for Suite 690, Tenant may purchase from Landlord, up to 5 Parking Passes for unreserved parking spaces (as reflected in Section III.A.7 of this Amendment). Notwithstanding any contrary provision in Exhibit F to the Lease, during the period commencing on the Commencement Date for Suite 690, and ending 24 months thereafter, the monthly charge for the Parking Passes shall continue to be \$50.00 per Parking Pass per month. Thereafter, the parking charges shall be at Landlord's scheduled parking rates from time to time.

H. Tenant Improvements. Landlord hereby agrees to complete the Tenant Improvements for Suite 690 in accordance with the provisions of Exhibit X, Work Letter, attached hereto.

#### IV. GENERAL.

A. Effect of Amendments. The Lease shall remain in full force and effect except to the extent that it is modified by this Amendment.

B. Entire Agreement. This Amendment embodies the entire understanding between Landlord and Tenant with respect to the modifications set forth in "III. MODIFICATIONS" above and can be changed only by a writing signed by Landlord and Tenant.

C. Counterparts; Digital Signatures. If this Amendment is executed in counterparts, each is hereby declared to be an original; all, however, shall constitute but one and the same amendment. In any action or proceeding, any photographic, photostatic, or other copy of this Amendment may be introduced into evidence without foundation. The parties agree to accept a digital image (including but not limited to an image in the form of a PDF, JPEG, GIF file, or other e-signature) of this Amendment, if applicable, reflecting the execution of one or both of the parties, as a true and correct original.

D. Defined Terms. All words commencing with initial capital letters in this Amendment and defined in the Lease shall have the same meaning in this Amendment as in the Lease, unless they are otherwise defined in this Amendment.

E. Authority. If Tenant is a corporation, limited liability company or partnership, or is comprised of any of them, each individual executing this Amendment for the corporation, limited liability company or partnership represents that he or she is duly authorized to execute and deliver this

---

Amendment on behalf of such entity and that this Amendment is binding upon such entity in accordance with its terms.

F. California Certified Access Specialist Inspection. Pursuant to California Civil Code § 1938, Landlord hereby states that the Premises have not undergone inspection by a Certified Access Specialist (CASp) (defined in California Civil Code § 55.52(a)(3)). Pursuant to Section 1938 of the California Civil Code, Landlord hereby provides the following notification to Tenant: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction related accessibility standards within the premises."

G. Attorneys' Fees. The provisions of the Lease respecting payment of attorneys' fees shall also apply to this Amendment.

H. Nondisclosure of Lease Terms. Tenant acknowledges that the content of this Amendment and any related documents are confidential information. Except to the extent disclosure is required by law, Tenant shall keep such confidential information strictly confidential and shall not disclose such confidential information to any person or entity other than Tenant's financial, legal and space-planning consultants, provided, however, that Tenant may disclose the terms to prospective subtenants or assignees under the Lease or pursuant to legal requirement.

I. Brokers. Article 18 of the Lease is amended to provide that the parties recognize the following parties as the brokers who negotiated this Amendment, and agree that Landlord shall be responsible for payment of brokerage commissions to such brokers pursuant to its separate agreements with such brokers: Irvine Management Company ("**Landlord's Broker**") is the agent of Landlord exclusively and [NONE] ("**Tenant's Broker**") is the agent of Tenant exclusively. By the execution of this Amendment, each of Landlord and Tenant hereby acknowledge and confirm (a) receipt of a copy of a Disclosure Regarding Real Estate Agency Relationship conforming to the requirements of California Civil Code 2079.16, and (b) the agency relationships specified herein, which acknowledgement and confirmation is expressly made for the benefit of Tenant's Broker. If there is no Tenant's Broker so identified herein, then such acknowledgement and confirmation is expressly made for the benefit of Landlord's Broker. By the execution of this Amendment, Landlord and Tenant are executing the confirmation of the agency relationships set forth herein. The warranty and indemnity provisions of Article 18 of the Lease, as amended hereby, shall be binding and enforceable in connection with the negotiation of this Amendment.

**V. EXECUTION.**

Landlord and Tenant executed this Amendment on the date as set forth in "I. PARTIES AND DATE." above.

**LANDLORD:**

THE IRVINE COMPANY LLC,  
a Delaware limited liability company

By:  
*/s/ Steven M. Case*  
Steven M. Case  
Executive Vice President, Leasing & Marketing  
Office Properties

By:  
*/s/ Christopher J. Popma*  
Christopher J. Popma  
Regional Vice President, Operations  
Office Properties

**TENANT:**

ENERGOUS CORPORATION,  
a Delaware corporation

By:  
*/s/ Bill Mannina*  
Printed Name: Bill Mannina  
Title: Acting CFO

By:  
*/s/ Cesar Johnston*  
Printed Name: Cesar Johnston  
Title: CEO

**CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Cesar Johnston, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Energos Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) 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(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 15, 2021

/s/ Cesar Johnston

Name: Cesar Johnston

Title: Acting Chief Executive Officer

**CERTIFICATION OF THE PRINCIPAL EXECUTIVE AND FINANCIAL OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, William Mannina, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Energos Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) 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(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 15, 2021

/s/ William Mannina

Name: William Mannina

Title: Acting 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 of Energos Corporation (the "Company") on Form 10-Q for the period ended September 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Cesar Johnston, Acting Chief Executive Officer and William Mannina, Acting Chief Financial Officer, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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

A signed original of this written statement required by Section 906 has been provided to Energos Corporation and will be retained by Energos Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ Cesar Johnston

Name: Cesar Johnston  
Title: Acting Chief Executive Officer  
Date: November 15, 2021

/s/ William Mannina

Name: William Mannina  
Title: Acting Chief Financial Officer  
Date: November 15, 2021