

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **December 27, 2016**



**Akoustis Technologies, Inc.**

(Exact name of registrant as specified in its charter)

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

**333-193467**  
(Commission File  
Number)

**33-1229046**  
(I.R.S. Employer  
Identification Number)

**9805 Northcross Center Court, Suite H**  
**Huntersville, NC 28078**  
(Address of principal executive offices, including zip code)

**704-997-5735**  
(Registrant's telephone number, including area code)

**Not Applicable**  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry into a Material Definitive Agreement**

On December 27, 2016, Akoustis Technologies, Inc. (the “Company”) held a closing (the “December Closing”) of a private placement offering (the “Offering”), in which the Company received subscription agreements for 411,000 shares of its common stock, par value \$0.001 per share (the “Common Stock”), at a fixed purchase price of \$5.00 per share (the “Offering Price”). Aggregate gross proceeds before deducting expenses of the Offering are expected to be \$2,055,000. As previously reported in the Company’s Current Report on Form 8-K, filed with the Securities and Exchange Commission (the “SEC”) on November 25, 2016 (the “November 8-K”), the Company previously sold 322,000 shares of Common Stock in the Offering, bringing the total number of shares of Common Stock subscribed for in the Offering to 733,000 shares, for aggregate gross proceeds before expenses of \$3,665,000. The Offering was exempt from registration under Section 4(a)(2) of the Securities Act of 1933, as amended (the “Securities Act”), in reliance upon the safe harbor provided by Rule 506(b) of Regulation D.

In connection with the December Closing, the Company agreed to pay a placement agent, a registered U.S. broker-dealer (the “Placement Agent”), cash commissions not to exceed 10% of the gross proceeds raised from investors first contacted by the Placement Agent in the Offering. In addition, the Company agreed to pay the Placement Agent warrant commissions to purchase a number of shares of Common Stock equal to 10% of the number of shares of Common Stock sold to investors first contacted by the Placement Agent in the Offering. The warrants have a term of five years and an exercise price of \$5.00 per share. As a result of the foregoing, the Placement Agent was paid an aggregate cash commission of \$194,500, subject to adjustment in certain limited circumstances, and will be issued warrants to purchase an aggregate of 38,900 shares of Common Stock. The Company is also required to reimburse the Placement Agent approximately \$13,440 of legal and other expenses incurred in connection with the Offering.

The investors who purchased shares of Common Stock at the December Closing purchased such shares pursuant to a Subscription Agreement on the same terms and conditions described in the November 8-K. Such investors also became a party to the Registration Rights Agreement described in the November 8-K. For a description of the terms and conditions of the Subscription Agreement and the Registration Rights Agreement, see “Item 1.01 Entry into a Material Definitive Agreement” in the November 8-K. The description of the terms and conditions of the Subscription Agreement and the description of the Registration Rights Agreement in the November 8-K are specifically incorporated herein by reference.

The Company amended the Registration Rights Agreement, effective December 15, 2016, to reflect that, as of December 15, 2016, the Company became a Delaware corporation. A copy of the amendment is attached hereto as Exhibit 10.1 and incorporated herein by reference.

**Item 3.02 Unregistered Sales of Equity Securities**

The information set forth under Item 1.01 above is incorporated herein by reference.

This Current Report on Form 8-K is filed in accordance with Securities Act Rule 135c and is neither an offer to sell any securities, nor a solicitation of an offer to buy any securities, nor will there be any offer or sale of any securities in any state or jurisdiction absent registration or compliance with an applicable exemption from registration requirements.

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits:**

<u>Exhibit No.</u>	<u>Description</u>
10.1	Registration Rights Agreement by and among the Company and the investors in the Offering <i>(incorporated by reference to Exhibit 10.1 to the registrant’s Current Report on Form 8-K filed with the SEC on November 25, 2016)</i>
10.2	Amendment No. 1 to Registration Rights Agreement by and among the Company and the investors in the Offering
10.3	Form of Placement Agent Warrant

**SIGNATURES**

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

**AKOUSTIS TECHNOLOGIES, INC.**

By: /s/ Jeffrey B. Shealy  
Name: Jeffrey B. Shealy  
Title: Chief Executive Officer

Date: December 28, 2016

## EXHIBIT INDEX

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**AMENDMENT NO. 1**  
**TO**  
**REGISTRATION RIGHTS AGREEMENT**

This Amendment No. 1 to the Registration Rights Agreement, effective December 15, 2016 (the “**Amendment**”), amends the Registration Rights Agreement, dated November 25, 2016 (the “**Agreement**”), among **Akoustis Technologies, Inc.**, then a Nevada corporation (the “**Company**”), and the persons who have executed omnibus or counterpart signature page(s) to the Agreement. Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Agreement.

**RECITALS:**

**WHEREAS**, the Company converted from a Nevada corporation to a Delaware corporation as of December 15, 2016; and

**WHEREAS**, Section 10 of the Subscription Agreement requires that, upon consummation of the reincorporation of the Company from the State of Nevada to the State of Delaware, the Company shall amend the Agreement to properly identify the Company as a Delaware corporation, which amendment shall not require Subscriber consent.

**NOW, THEREFORE**, in consideration of the mutual promises, representations, warranties, covenants, and conditions set forth herein and in the Agreement, the Agreement, is hereby amended as follows:

1. Amendments.

- (a) The first sentence of the Agreement is hereby amended to read in its entirety as follows:

This Registration Rights Agreement (this “**Agreement**”) is made and entered into effective as of November 25, 2016, among **Akoustis Technologies, Inc.** (then a Nevada corporation, and as of December 15, 2016, a Delaware corporation) (the “**Company**”), and the persons who have executed omnibus or counterpart signature page(s) hereto (each, a “**Subscriber**” and collectively, the “**Subscribers**”).

- (b) The first sentence of Annex A to the Agreement is hereby amended to read in its entirety as follows:

The undersigned beneficial owner of Registrable Securities of **Akoustis Technologies, Inc.** (a Nevada corporation prior to December 15, 2016, and a Delaware corporation as of December 15, 2016) (the “Company”) understands that the Company has filed or intends to file with the U.S. Securities and Exchange Commission a registration statement (the “Registration Statement”) for the registration and resale under Rule 415 of the Securities Act of 1933, as amended, of the Registrable Securities, in accordance with the terms of the Registration Rights Agreement (the “Registration Rights Agreement”) to which this document is annexed.

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2. No Other Amendments. Except as amended hereby, the Agreement shall remain unmodified and in full force and effect.

3. Severability. In the case any provision of this Amendment shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**[COMPANY SIGNATURE PAGE FOLLOWS]**

This Amendment to the Registration Rights Agreement is hereby executed as of the date first above written.

**THE COMPANY:**

**AKOUSTIS TECHNOLOGIES, INC.**

By: /s/ Jeffrey B. Shealy

Name: Jeffrey B. Shealy

Title: Chief Executive Officer

## FORM OF BROKERS WARRANT

## WARRANT

NEITHER THE SECURITIES REPRESENTED HEREBY NOR THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “*SECURITIES ACT*”), OR UNDER THE SECURITIES LAWS OF ANY STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. UNLESS SOLD PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

## Akoustis Technologies, Inc.

## WARRANT

Warrant No. \_\_\_\_\_

Original Issue Date:  
\_\_\_\_\_, 2016

Akoustis Technologies, Inc., a Delaware corporation (the “*Company*”), hereby certifies that, for value received, [\_\_\_\_\_] or its registered assigns (the “*Holder*”), is entitled to purchase from the Company up to a total of [\_\_\_\_\_] shares of Common Stock (each such share, a “*Warrant Share*” and all such shares, the “*Warrant Shares*”), at any time and from time to time from and after the Original Issue Date and through and including [\_\_\_\_\_] 2021 (the “*Expiration Date*”), and subject to the following terms and conditions:

**1. Definitions.** As used in this Warrant, the following terms shall have the respective definitions set forth in this Section 1. Capitalized terms that are used and not defined in this Warrant that are defined in the Agreement (as defined below) shall have the respective definitions set forth in the Agreement.

“*Brokers Warrants*” means warrants, including this Warrant, to purchase shares of Common Stock, which warrants were issued pursuant to the agreement.

“*Closing Price*” means, for any date of determination, the price determined by the first of the following clauses that applies: (i) if the Common Stock is then listed or quoted on a Trading Market, the closing bid price per share of the Common Stock for such date (or the nearest preceding date) on such market; (ii) if prices for the Common Stock are then quoted on the OTC Bulletin Board, the closing bid price per share of the Common Stock for such date (or the nearest preceding date) so quoted; (iii) if prices for the Common Stock are then reported in the OTC Markets, the most recent bid price per share of the Common Stock so reported; or (iv) in all other cases, the fair market value of a share of Common Stock as determined by an independent qualified appraiser selected in good faith and paid for by the Company.

“*Common Stock*” means the common stock of the Company, par value \$0.001 per share, and any securities into which such common stock may hereafter be reclassified.

“*Exercise Price*” means \$5.00, subject to adjustment in accordance with Section 9.

“*Agreement*” means the Placement Agency Agreement, dated [\_\_\_\_\_] 2016, to which the Company and the Holder are parties.

“*Fundamental Transaction*” means any of the following: (i) the Company effects any merger or consolidation of the Company with or into another person, (ii) the Company effects any sale of all or substantially all of its assets in one or a series of related transactions, (iii) any tender offer or exchange offer (whether by the Company or another person) is completed pursuant to which holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property, or (iv) the Company effects any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property.



“*Original Issue Date*” means the Original Issue Date first set forth on the first page of this Warrant or its predecessor instrument.

“*Private Placement*” means the private placement offering described in the Agreement of up to 2,000,000 shares of Common Stock at a price of \$5.00 per share, for aggregate gross proceeds of up to \$10,000,000.

“*Registration Rights Agreement*” means the Registration Rights Agreement, dated November 25, 2016, as amended, to which the Company and the Holder are parties.

“*Trading Day*” means (i) a day on which the Common Stock is traded on a Trading Market (other than the OTC Bulletin Board), or (ii) if the Common Stock is not listed on a Trading Market (other than the OTC Bulletin Board), a day on which the Common Stock is traded in the over-the-counter market, as reported by the OTC Bulletin Board, or (iii) if the Common Stock is not quoted on any Trading Market, a day on which the Common Stock is quoted in the over-the-counter market as reported by the OTC Markets (or any similar organization or agency succeeding to its functions of reporting prices); provided, that in the event that the Common Stock is not listed or quoted as set forth in clauses (i), (ii) and (iii) hereof, then Trading Day shall mean a Business Day.

“*Trading Market*” means whichever of the New York Stock Exchange, NYSE MKT, the NASDAQ Global Select Market, the NASDAQ Global Market, the NASDAQ Capital Market or the OTC Bulletin Board on which the Common Stock is listed or quoted for trading on the date in question.

**2. Registration of Warrant.** The Company shall register this Warrant upon records to be maintained by the Company for that purpose (the “*Warrant Register*”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

**3. Registration of Transfers.** The Company shall register the transfer of any portion of this Warrant in the Warrant Register, upon surrender of this Warrant, with the Form of Assignment attached hereto duly completed and signed, to the Company at its address specified herein. Upon any such registration or transfer, a new Warrant to purchase Common Stock, in substantially the form of this Warrant (any such new Warrant, a “*New Warrant*”), evidencing the portion of this Warrant so transferred shall be issued to the transferee and a New Warrant evidencing the remaining portion of this Warrant not so transferred, if any, shall be issued to the transferring Holder. The acceptance of the New Warrant by the transferee thereof shall be deemed the acceptance by such transferee of all of the rights and obligations of a holder of a Warrant.

**4. Exercise and Duration of Warrants.**

(a) This Warrant shall be exercisable by the registered Holder in whole at any time and in part from time to time from the Original Issue Date through and including the Expiration Date. At 5:30 p.m., Central time on the Expiration Date, the portion of this Warrant not exercised prior thereto shall be and become void and of no value. The Company may not call or redeem any portion of this Warrant without the prior written consent of the affected Holder.

(b) Notwithstanding anything to the contrary contained herein, the number of Warrant Shares that may be acquired by the Holder upon any exercise of this Warrant (or otherwise in respect hereof) shall be limited to the extent necessary to insure that, following such exercise (or other issuance), the total number of shares of Common Stock then beneficially owned by such Holder and its affiliates (as defined under Rule 144, “*Affiliates*”) and any other persons whose beneficial ownership of Common Stock would be aggregated with the Holder’s for purposes of Section 13(d) of the Exchange Act, does not exceed 4.999% of the total number of issued and outstanding shares of Common Stock (including for such purpose the shares of Common Stock issuable upon such exercise). For such purposes, beneficial ownership shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. This provision shall not restrict the number of shares of Common Stock which a Holder may receive or beneficially own in order to determine the amount of securities or other consideration that such Holder may receive in the event of a Fundamental Transaction as contemplated in Section 9 of this Warrant. By written notice to the Company, the Holder may waive the provisions of this Section 4(b) but any such waiver will not be effective until the 61st day after delivery of such notice, nor will any such waiver effect any other Holder.

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Notwithstanding anything to the contrary contained herein, the number of Warrant Shares that may be acquired by the Holder upon any exercise of this Warrant (or otherwise in respect hereof) shall be limited to the extent necessary to insure that, following such exercise (or other issuance), the total number of shares of Common Stock then beneficially owned by such Holder and its Affiliates and any other persons whose beneficial ownership of Common Stock would be aggregated with the Holder's for purposes of Section 13(d) of the Exchange Act, does not exceed 9.999% of the total number of issued and outstanding shares of Common Stock (including for such purpose the shares of Common Stock issuable upon such exercise). For such purposes, beneficial ownership shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. This provision shall not restrict the number of shares of Common Stock which a Holder may receive or beneficially own in order to determine the amount of securities or other consideration that such Holder may receive in the event of a Fundamental Transaction as contemplated in Section 9 of this Warrant. This restriction may not be waived.

#### **5. Delivery of Warrant Shares.**

(a) To effect exercises hereunder, the Holder shall not be required to physically surrender this Warrant unless the aggregate Warrant Shares represented by this Warrant are being exercised. Upon delivery of the Exercise Notice (in the form attached hereto) to the Company (with the attached Warrant Shares Exercise Log) at its address for notice set forth herein and upon payment of the Exercise Price multiplied by the number of Warrant Shares that the Holder intends to purchase hereunder, the Company shall promptly (but in no event later than three Trading Days after the Date of Exercise (as defined herein)) issue and deliver to the Holder, a certificate for the Warrant Shares issuable upon such exercise, which, unless otherwise required by applicable law, shall be free of restrictive legends. The Company shall, upon request of the Holder and subsequent to the date on which a registration statement covering the resale of the Warrant Shares has been declared effective by the Securities and Exchange Commission, use its reasonable best efforts to deliver Warrant Shares hereunder electronically through the Depository Trust Corporation or another established clearing corporation performing similar functions, if available, provided, that, the Company may, but will not be required to change its transfer agent if its current transfer agent cannot deliver Warrant Shares electronically through the Depository Trust Corporation. A "*Date of Exercise*" means the date on which the Holder shall have delivered to the Company: (i) the Exercise Notice (with the Warrant Exercise Log attached to it), appropriately completed and duly signed and (ii) if such Holder is not utilizing the cashless exercise provisions set forth in this Warrant, payment of the Exercise Price for the number of Warrant Shares so indicated by the Holder to be purchased.

(b) If by the third Trading Day after a Date of Exercise the Company fails to deliver the required number of Warrant Shares in the manner required pursuant to Section 5(a), then the Holder will have the right to rescind such exercise.

(c) If by the third Trading Day after a Date of Exercise the Company fails to deliver the required number of Warrant Shares in the manner required pursuant to Section 5(a), and if after such third Trading Day and prior to the receipt of such Warrant Shares, the Holder purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "*Buy-In*"), then the Company shall (1) pay in cash to the Holder the amount by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (A) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue by (B) the closing bid price of the Common Stock at the time of the obligation giving rise to such purchase obligation and (2) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In.

(d) The Company's obligations to issue and deliver Warrant Shares in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by the Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by the Holder or any other person of any obligation to the Company or any violation or alleged violation of law by the Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligation of the Company to the Holder in connection with the issuance of Warrant Shares. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing Warrant Shares upon exercise of the Warrant as required pursuant to the terms hereof.

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**6. Charges, Taxes and Expenses.** Issuance and delivery of Warrant Shares upon exercise of this Warrant shall be made without charge to the Holder for any issue or transfer tax, withholding tax, transfer agent fee or other incidental tax or expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Company; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the registration of any certificates for Warrant Shares or Warrants in a name other than that of the Holder. The Holder shall be responsible for all other tax liability that may arise as a result of holding or transferring this Warrant or receiving Warrant Shares upon exercise hereof.

**7. Replacement of Warrant.** If this Warrant is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation hereof, or in lieu of and substitution for this Warrant, a New Warrant, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction and customary and reasonable indemnity (which shall not include a surety bond), if requested. Applicants for a New Warrant under such circumstances shall also comply with such other reasonable regulations and procedures and pay such other reasonable third-party costs as the Company may prescribe. If a New Warrant is requested as a result of a mutilation of this Warrant, then the Holder shall deliver such mutilated Warrant to the Company as a condition precedent to the Company's obligation to issue the New Warrant.

**8. Reservation of Warrant Shares.** The Company covenants that it will at all times reserve and keep available out of the aggregate of its authorized but unissued and otherwise unreserved Common Stock, solely for the purpose of enabling it to issue Warrant Shares upon exercise of this Warrant as herein provided, the number of Warrant Shares which are then issuable and deliverable upon the exercise of this entire Warrant, free from preemptive rights or any other contingent purchase rights of Persons other than the Holder (taking into account the adjustments and restrictions of Section 9). The Company covenants that all Warrant Shares so issuable and deliverable shall, upon issuance and the payment of the applicable Exercise Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and nonassessable.

**9. Certain Adjustments.** The Exercise Price and number of Warrant Shares issuable upon exercise of this Warrant are subject to adjustment from time to time as set forth in this Section 9.

**(a) Stock Dividends and Splits.** If the Company, at any time while this Warrant is outstanding, (i) pays a stock dividend on its Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, or (iii) combines outstanding shares of Common Stock into a smaller number of shares, then in each such case the Exercise Price shall be adjusted to equal the product obtained by multiplying the then-current Exercise Price by a fraction of which the numerator shall be the number of shares of Common Stock outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination.

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**(b) Fundamental Transactions.** If, at any time while this Warrant is outstanding there is a Fundamental Transaction, then the Holder shall have the right thereafter to receive, upon exercise of this Warrant, the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of Warrant Shares then issuable upon exercise in full of this Warrant (the “Alternate Consideration”). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. At the Holder’s option and request, any successor to the Company or surviving entity in such Fundamental Transaction shall, either (1) issue to the Holder a new warrant substantially in the form of this Warrant and consistent with the foregoing provisions and evidencing the Holder’s right to purchase the Alternate Consideration for the aggregate Exercise Price upon exercise thereof, or (2) purchase the Warrant from the Holder for a purchase price, payable in cash within five Trading Days after such request (or, if later, on the effective date of the Fundamental Transaction), equal to the Black Scholes value of the remaining unexercised portion of this Warrant on the date of such request. The terms of any agreement pursuant to which a Fundamental Transaction is effected shall include terms requiring any such successor or surviving entity to comply with the provisions of this paragraph (b) and insuring that the Warrant (or any such replacement security) will be similarly adjusted upon any subsequent transaction analogous to a Fundamental Transaction. **Notwithstanding the foregoing, the Warrant holder will not be entitled to exchange these warrants for cash in any Fundamental Transaction that is not approved by the Company’s board of directors or that occurs in a transaction or as a result of an event that was not within the Company’s sole control.**

**(c) Number of Warrant Shares.** Simultaneously with any adjustment to the Exercise Price pursuant to this Section 9, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the adjusted number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment.

**(e) Calculations.** All calculations under this Section 9 shall be made to the nearest cent or the nearest 1/100<sup>th</sup> of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company, and the disposition of any such shares shall be considered an issue or sale of Common Stock.

**(f) Notice of Adjustments.** Upon the occurrence of each adjustment pursuant to this Section 9, the Company at its expense will promptly compute such adjustment in accordance with the terms of this Warrant and prepare a certificate setting forth such adjustment, including a statement of the adjusted Exercise Price and adjusted number or type of Warrant Shares or other securities issuable upon exercise of this Warrant (as applicable), describing the transactions giving rise to such adjustments and showing in detail the facts upon which such adjustment is based. Upon written request, the Company will promptly deliver a copy of each such certificate to the Holder and to the Company’s Transfer Agent.

**10. Payment of Exercise Price.** The Holder may pay the Exercise Price in one of the following manners:

**(a) Cash Exercise.** The Holder may deliver immediately available funds; or

**(b) Cashless Exercise.** Pursuant to a Company Exercise, or if an Exercise Notice is delivered at a time when a registration statement permitting the Holder to resell the Warrant Shares is not then effective or the prospectus forming a part thereof is not then available to the Holder for the resale of the Warrant Shares, then the Holder may notify the Company in an Exercise Notice of its election to utilize a cashless exercise, in which event the Company shall issue to the Holder the number of Warrant Shares determined as follows:

$$X = Y [(A-B)/A]$$

where:

X = the number of Warrant Shares to be issued to the Holder.

Y = the number of Warrant Shares with respect to which this Warrant is being exercised.

A = the average of the Closing Prices for the five Trading Days immediately prior to (but not including) the Exercise Date.

B = the Exercise Price.

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For purposes of Rule 144 promulgated under the Securities Act, it is intended, understood and acknowledged that the Warrant Shares issued in a cashless exercise transaction shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued.

**11. No Fractional Shares.** No fractional shares of Warrant Shares will be issued in connection with any exercise of this Warrant. In lieu of any fractional shares which would, otherwise be issuable, the Company shall pay cash equal to the product of such fraction multiplied by the Closing Price of one Warrant Share on the date of exercise.

**12. Notices.** Any and all notices or other communications or deliveries hereunder (including, without limitation, any Exercise Notice) shall be in writing and shall be deemed given and effective if provided pursuant to the Agreement. In case any time: (1) the Company shall declare any cash dividend on its capital stock; (2) the Company shall pay any dividend payable in stock upon its capital stock or make any distribution to the holders of its capital stock; (3) the Company shall offer for subscription pro rata to the holders of its capital stock any additional shares of stock of any class or other rights; (4) there shall be any capital reorganization, or reclassification of the capital stock of the Company, or consolidation or merger of the Company with, or sale of all or substantially all of its assets to, another corporation; or (5) there shall be a voluntary or involuntary dissolution, liquidation or winding up of the Company; then, in any one or more of said cases, the Company shall give prompt written notice to the Holder. Such notice shall also specify the date as of which the holders of capital stock of record shall participate in such dividend, distribution or subscription rights, or shall be entitled to exchange their capital stock for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding up, or conversion or redemption, as the case may be. Such written notice shall be given at least 20 days prior to the action in question and not less than 20 days prior to the record date or the date on which the Company's transfer books are closed in respect thereto.

**13. Registration Rights.** The Holder shall be entitled to the registration rights set forth in the Registration Rights Agreement.

**14. Lock Up.** In accordance with FINRA Rule 5110(g), this Warrant shall not be sold during the Private Placement, or sold, transferred, assigned, pledged, or hypothecated, or be the subject of any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of this Warrant or the Warrant Shares, by any person for a period of 180 days immediately following the date of effectiveness or commencement of sales of the Private Placement, except as provided in paragraph (g)(2) of FINRA Rule 5110.

**16. Miscellaneous.**

**(a)** This Warrant shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. Subject to the preceding sentence, nothing in this Warrant shall be construed to give to any Person other than the Company and the Holder any legal or equitable right, remedy or cause of action under this Warrant.

**(b)** This Warrant may be amended from time to time with the prior written consent of holders of Brokers Warrants exercisable for a majority of the shares of Common Stock then issuable upon exercise of Brokers Warrants then outstanding; *provided, however*, that the consent of the Holder shall be required for any amendment of this Warrant that would (i) increase the Exercise Price or decrease the number of Warrant Shares purchasable upon exercise of this Warrant, except that such consent shall not be required for any adjustment to the Exercise Price or the number of Warrant Shares purchasable if made pursuant to the provisions of Section 9, (ii) alter the Company's obligation to issue Warrant Shares upon exercise of this Warrant (other than pursuant to adjustments otherwise provided for in this Warrant, including the adjustments provided for in Section 9), (iii) change the Expiration Date of the Warrant to an earlier date, (iv) waive the application of the adjustments provisions contained in Section 9 in connection with any events to which such provisions apply or otherwise modify the adjustment provisions contained in Section 9 in a manner that would have an adverse economic impact on the Holder, or (v) treat the Holder differently in an adverse way from any other holders of Brokers Warrants.

**(c)** All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof.

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(d) The headings herein are for convenience only, do not constitute a part of this Warrant and shall not be deemed to limit or affect any of the provisions hereof.

(e) In case any one or more of the provisions of this Warrant shall be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Warrant shall not in any way be affected or impaired thereby and the parties will attempt in good faith to agree upon a valid and enforceable provision which shall be a commercially reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Warrant.

(f) Prior to exercise of this Warrant, the Holder hereof shall not, by reason of by being a Holder, be entitled to any rights of a stockholder with respect to the Warrant Shares.

*[Remainder of page intentionally left blank, signature page follows]*

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In witness whereof, the Company has caused this Warrant to be duly executed by its authorized officer as of the date first indicated above.

**AKOUSTIS TECHNOLOGIES, INC.**

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

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EXERCISE NOTICE

The undersigned Holder hereby irrevocably elects to purchase \_\_\_\_\_ shares of Common Stock pursuant to the attached Warrant. Capitalized terms used herein and not otherwise defined have the respective meanings set forth in the Warrant.

(1) The undersigned Holder hereby exercises its right to purchase \_\_\_\_\_ Warrant Shares pursuant to the Warrant.

(2) The Holder intends that payment of the Exercise Price shall be made as (check one):

\_\_\_\_\_ “Cash Exercise” under Section 10

\_\_\_\_\_ “Cashless Exercise” under Section 10

(3) If the Holder has elected a Cash Exercise, the Holder shall pay the sum of \$ \_\_\_\_\_ to the Company in accordance with the terms of the Warrant.

(4) Pursuant to this Exercise Notice, the Company shall deliver to the Holder \_\_\_\_\_ Warrant Shares in accordance with the terms of the Warrant.

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

Name of Holder:

(Print)

\_\_\_\_\_

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

Title: \_\_\_\_\_

(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

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Warrant Shares Exercise Log

<b>Date</b>	<b>Number of Warrant Shares Available to be Exercised</b>	<b>Number of Warrant Shares Exercised</b>	<b>Number of Warrant Shares Remaining to be Exercised</b>
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FORM OF ASSIGNMENT

[To be completed and signed only upon transfer of Warrant]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto the right represented by the attached Warrant to purchase shares of Common Stock to which such Warrant relates and appoints attorney to transfer said right on the books of the Company with full power of substitution in the premises.

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

\_\_\_\_\_  
(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

Address of Transferee

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

Attest:

\_\_\_\_\_

\_\_\_\_\_