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): August 20, 2026

Expion Energy Inc.
(Exact name of Registrant as specified in its charter)

Nevada	001-41347	81-2701049
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

2025 SW Deerhound Avenue
Redmond, OR 97756
(Address of principal executive offices and zip code)

(541) 797-6714
(Registrant's telephone number, including area code)

Expion360 Inc.
(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:

☐ 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))

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, par value $0.001 per share	**XPON**	**The Nasdaq Capital Market**

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company ☒

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. ☐

Item 1.01. Entry Into a Material Definitive Agreement.

Private Placement of Convertible Debentures and Warrants

Securities Purchase Agreement

On August 21, 2026 (the "Effective Date"), Expion Energy, Inc., formerly known as Expion360 Inc. (the "Company"), entered into a securities purchase agreement (the "Purchase Agreement") with the purchasers identified on the signature pages thereto (the "Purchasers") providing for the issuance and sale to the Purchasers of (i) 8% Convertible Debentures Due August 21, 2029 (the "Convertible Debentures") in the aggregate principal amount of $9,000,000, initially convertible into 9,000 shares (the "Preferred Conversion Shares") of a series of preferred stock to be designated the Series A-1 8% Convertible Preferred Stock (the "Series A-1 Preferred Stock"), and (ii) Common Stock Purchase Warrants (the "Warrants") to purchase up to 2,117,219 shares of the Company's common stock, par value $0.001 per share (the "Common Stock"), which is equal to 100% of the shares of Common Stock issuable upon conversion of the shares of the Series A-1 Preferred Stock as described in more detail below. Subject to the Company receiving Shareholder Approval and filing the Certificate of Designation of the Series A-1 Convertible Preferred Stock (the "Certificate of Designation") with the Nevada Secretary of State, the Convertible Debentures will automatically convert into Preferred Conversion Shares. The Preferred Conversion Shares may subsequently be converted into shares of Common Stock on the terms set forth in the Certificate of Designation (once it is filed). The issuance of the Convertible Debentures and Warrants was made pursuant to the exemption from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), provided by Section 4(a)(2) of the Securities Act and Rule 506 promulgated thereunder (the "Private Placement"). Unless specifically defined herein, or unless the context requires otherwise, capitalized terms used herein have the meanings set forth in the Purchase Agreement.

The lead Purchaser in the Private Placement is Five Narrow Lane LP ("FNL"), which is affiliated with Joseph Hammer, who served as the Company's Chief Executive Officer through the Effective Date and continues to serve as Chairman of the Company's board of directors (the "Board") on an interim basis. The Private Placement was approved by the disinterested members of the Board. For additional information regarding Mr. Hammer's transition as Chief Executive Officer, see the section titled "*Transition of Chief Executive Officer*" in Item 5.02 of this Current Report on Form 8-K (this "Current Report").

The Company expects to receive net proceeds of approximately $8,200,000 from the initial closing of the Private Placement (excluding proceeds from any cash exercise of the Warrants), after deducting fees payable to Palladium Capital Group, LLC, the Company's placement agent in connection with the Private Placement (the "Placement Agent"), and estimated offering expenses. The Company expects to use the net proceeds for (i) the acquisition of certain oil and gas assets in Eastern Louisiana, and (ii) general corporate purposes, including working capital. For additional information regarding the acquisition of the oil and gas assets, see the section titled "—*Oil and Gas Exploration Opportunity*" in this Item 1.01 in this Current Report.

Pursuant to the Purchase Agreement, subject to the Company receiving Shareholder Approval, the Purchasers may also elect to purchase additional shares of the Company's convertible preferred stock (the "AIR Preferred Stock") with an aggregate stated value of up to $91,000,000, representing up to 91,000 shares of AIR Preferred Stock (the "Additional Investment Right"). At each additional closing of the sale of AIR Preferred Stock pursuant to an exercise of the Additional Investment Right, the AIR Preferred Stock will be issued in a separate series (*e.g.*, Series A-2, Series A-3, etc.) pursuant to a new certificate of designation for each such series filed by the Company with the Nevada Secretary of State, which will have substantially similar terms as the Series A-1 Preferred Stock, but in each case with a different issuance date, number of authorized shares, and conversion price.

For a period of 12 months following the later of the Effective Date or the date of Shareholder Approval, each Purchaser has the right to participate in up to 33% of any subsequent issuance by the Company of Common Stock or Common Stock Equivalents (each, a "Subsequent Financing"), on the same terms, conditions and price provided for in such Subsequent Financing. If participating Purchasers' elections exceed the 33% participation maximum in the aggregate, each Purchaser's allocation is determined on a pro rata basis according to its initial subscription amount. The participation right does not apply with respect to certain Exempt Issuances.

Convertible Debentures

The Convertible Debentures issued to the Purchasers have an initial aggregate principal amount of $9,000,000 and mature on August 21, 2029 (the "Maturity Date"). Upon the Company's receipt of Shareholder Approval and the filing of the Certificate of Designation with the Nevada Secretary of State, each Convertible Debenture will automatically convert into shares of Series A-1 Preferred Stock at a conversion price of $1,000 per share, resulting in the issuance of up to 9,000 Preferred Conversion Shares.

The Convertible Debentures accrue interest on the aggregate unconverted and then outstanding principal amount at the Applicable Federal Rate from the original issue date thereof, increasing to 8% per annum commencing on the first anniversary of the original issue date. Interest is payable quarterly on January 1, April 1, July 1 and October 1, beginning on the first such date after the original issue date, on the conversion date, and on the Maturity Date, in each case payable in cash. From and after the occurrence and during the continuance of an Event of Default (as defined in the Convertible Debenture), the interest rate will increase by 5% per annum.

The Convertible Debentures are the direct, unsecured debt obligations of the Company.

So long as at least $2,250,000 in aggregate principal amount of the Convertible Debentures remains outstanding, the Company is subject to certain negative covenants, including restrictions on the incurrence of additional indebtedness, the creation of liens, the payment of cash dividends, and the repurchase of the Company's equity securities, in each case subject to certain exceptions.

The Company may not prepay any portion of the principal amount of a Convertible Debenture without the prior written consent of the holders of the Convertible Debentures.

Series A-1 Preferred Stock and AIR Preferred Stock

The stated value of the Series A-1 Preferred Stock is $1,000 per share, subject to increase as set forth in the Certificate of Designation, and the stated value of the AIR Preferred Stock is $1,000 per share (as applicable, the "Stated Value"). Each share of the Series A-1 Preferred Stock and the AIR Preferred Stock will be convertible, at any time and from time to time, from and after the applicable original issue date thereof at the option of the holder thereof, into that number of shares of Common Stock (subject to the Beneficial Ownership Limitation (as defined in the Certificate of Designation) and the Issuable Maximum) determined by dividing the Stated Value of such share of the Series A-1 Preferred Stock and the AIR Preferred Stock, as applicable, by the conversion price thereof.

The initial conversion price for the Series A-1 Preferred Stock is $4.25 per share, which is equal to 105% of the average of the daily VWAPs for the five trading days prior to August 21, 2026, and is subject to adjustment as described in the Certificate of Designation, including in the event of dilutive issuances (subject to certain exceptions). The initial conversion price of the first $10,000,000 in the aggregate of the AIR Preferred Stock will equal 150% of the initial conversion price of the Series A-1 Preferred Stock and, thereafter, the AIR Preferred Stock issuable pursuant to all subsequent exercises of the Additional Investment Right will have an initial conversion price equal to the lower of (x) the initial conversion price of the Series A-1 Preferred Stock, and (y) 90% of the arithmetic average of the three lowest daily VWAPs during the five trading days prior to the date of exercise of the Additional Investment Right, provided in all cases the conversion price of the AIR Preferred Stock will not be less than $0.72 per share, which is equal to 20% of the Nasdaq Minimum Price on the date prior to the Effective Date (subject to adjustment for reverse and forward stock splits, recapitalizations, and similar transactions following such date, the "Floor Price"), and the conversion price of the AIR Preferred Stock will be subject to adjustment as described in the applicable certificate of designation, including in the event of dilutive issuances (subject to certain exceptions). There is no mandatory conversion, repurchase or redemption right by the Company with respect to the Series A-1 Preferred Stock or AIR Preferred Stock, nor is there any restriction on the repurchase or redemption of the Series A-1 Preferred Stock or AIR Preferred Stock by the Company.

Subject to certain exemptions, if the Company sells or grants any option to purchase, or sells or grants any right to reprice, or otherwise dispose of or issue, any Common Stock or Common Stock Equivalents at an effective price per share that is lower than the then applicable conversion price of the Series A-1 Preferred Stock and/or AIR Preferred Stock, then such conversion price will be reduced to equal the lower price of such dilutive issuance (but in no event lower than the Floor Price). Issuances under the Additional Investment Right are not exempt and could trigger this anti-dilution protection. If the Company receives a conversion notice with respect to Series A-1 Preferred Stock when the applicable conversion price then in effect (without regard to the Floor Price) is lower than the Floor Price then in effect (such amount, the "Applicable Conversion Price"), then the Company will, in its sole discretion, either (a) reduce the Floor Price to the Applicable Conversion Price and allow such conversion to be made at the Applicable Conversion Price, or (b) issue a number of shares of Common Stock equal to the Stated Value of the Series A-1 Preferred Stock to be converted divided by the Floor Price (without adjusting to the Applicable Conversion Price) and either (i) pay the economic difference in cash or (ii) add the economic difference to the Stated Value of the holder's shares of Series A-1 Preferred Stock that remain unconverted following such conversion. This adjustment provision only applies to the Series A-1 Preferred Stock and will not apply to any AIR Preferred Stock issued upon exercise of the Additional Investment Right.

The Series A-1 Preferred Stock and AIR Preferred Stock bear cumulative dividends that accrue at a per annum rate of 8%, payable quarterly on January 1, April 1, July 1 and October 1, beginning on the first anniversary of the issuance date of the Series A-1 Preferred Stock and AIR Preferred Stock, as applicable, and on each Conversion Date (as defined in the applicable certificate of designation) thereafter, payable in cash, or at the Company's option, in duly authorized, validly issued, fully paid and non-assessable registered shares of Common Stock, or a combination thereof, at a dividend conversion rate equal to the lesser of (x) the applicable Conversion Price, or (y) 90% of the arithmetic average of the three lowest daily VWAPs during the five trading days prior to the applicable dividend payment date, provided that the dividend conversion rate will not be less than the Floor Price. Payment of dividends in shares of Common Stock is subject to satisfaction of certain equity conditions as described in the applicable certificate of designation.

Except as otherwise set forth in the applicable certificate of designation or required by law, the Series A-1 Preferred Stock and AIR Preferred Stock have no voting rights.

Warrants

Pursuant to the Purchase Agreement, the Company agreed to issue to each Purchaser a Warrant to purchase shares of Common Stock, equal to 100% of the shares of Common Stock issuable upon conversion of the shares of the Series A-1 Preferred Stock to be issued to such Purchaser upon conversion of the Debentures. The Warrants are exercisable for an aggregate of up to 2,117,219 shares of Common Stock. No additional Warrants shall be issued in connection with the exercise of the Additional Investment Right.

The Warrants have an initial exercise price per share of $4.25, which is equal to the initial conversion price of the Series A-1 Preferred Stock (the "Exercise Price"). The Exercise Price is subject to adjustment on the same terms of adjustment set forth in the Certificate of Designation, including in the event of dilutive issuances (subject to certain exceptions). The Warrants will be exercisable, subject to the Beneficial Ownership Limitation and the Issuable Maximum, immediately upon issuance, and will have a term of exercise equal to five years.

If a registration statement under the Securities Act registering the resale of the shares of Common Stock underlying the Warrants is not effective, the holder may elect to exercise the Warrants through a cashless exercise.

Registration Rights Agreement

In connection with the Purchase Agreement, the Company entered into a registration rights agreement (the "Registration Rights Agreement") with the Purchasers pursuant to which the Company agreed to file (a) a resale registration statement with respect to the public resale of the Common Stock issuable upon conversion of the Series A-1 Preferred Stock and upon exercise of the Warrants not later than 20 days after the Company receives Shareholder Approval, and to use commercially reasonable efforts to cause such registration statement to become effective no later than 45 days after the Company receives Shareholder Approval, or 75 days in the event of a "full review" by the Securities and Exchange Commission (the "SEC"), and (b) a resale registration statement with respect to the public resale of the Common Stock issuable upon conversion of the AIR Preferred Stock not later than the earliest practical date on which the Company is permitted by SEC guidance to file such registration statement after each closing of the exercise of any Additional Investment Right, and to use commercially reasonable efforts to cause each such registration statement to become effective no later than 30 days after filing, or 60 days in the event of a "full review" by the SEC.

The foregoing descriptions of the Purchase Agreement, Debenture, Warrant, Certificate of Designation, and Registration Rights Agreement do not purport to be complete and are subject to and qualified in their entirety by reference to the complete text of such documents, which are attached as Exhibits 10.1, 4.1, 4.2, 3.1 and 10.2, respectively, to this Current Report, and are incorporated herein by reference.

Placement Agent Agreement

On June 27, 2026, the Company entered into a placement agent agreement (the "Placement Agreement") with the Placement Agent pursuant to which the Company engaged the Placement Agent as its non-exclusive placement agent in connection with the Private Placement. The Company agreed to pay the Placement Agent a cash fee equal to 8% of the gross proceeds from the sale of securities in the Private Placement, including the sale of the AIR Preferred Stock (but excluding proceeds from any cash exercise of the Warrants), provided that no fees are payable in connection with the sale of securities to FNL or any of its affiliates. In addition, the Company agreed to reimburse the Placement Agent for certain expenses incurred by it in connection with the Private Placement in the amount of $100,000.

Oil and Gas Exploration Opportunity

Membership Interest Purchase Agreement

On August 21, 2026, the Company entered into a membership interest purchase agreement (the "Membership Interest Purchase Agreement") with the sellers set forth on the signature pages thereto (collectively, the "Sellers"), pursuant to which the Company agreed to acquire, and the Sellers agreed to sell, all of the issued and outstanding membership interests (the "Membership Interests") of the target company (the "Target") for a cash purchase price of $3,500,000 (the "Purchase Price"). The Target owns and controls assets related to an oil and gas exploration opportunity (the "Prospect") encompassing an area of mutual interest in Eastern Louisiana targeting multiple stacked benches within a specific gas reservoir (the "AMI"). The Target's assets include an existing oil and gas leasehold of approximately 3,000 net acres within the AMI, a wellbore (the "Well"), mineral title research covering approximately 13,000 net acres, and intellectual property developed in connection with the Prospect.

The Purchase Price is subject to certain adjustments, including for a $100,000 certificate of deposit held by the Target and a non-refundable earnest money deposit of $175,000 previously paid by the Company to the Sellers, resulting in an adjusted purchase price of $3,425,000 in cash paid at closing.

The Membership Interest Purchase Agreement contains customary representations and warranties and covenants made by the parties. The Membership Interest Purchase Agreement also includes certain post-closing covenants, including (i) confidentiality obligations of Sellers with respect to information concerning the Target, and (ii) a non-competition, non-circumvention, and non-solicitation covenants pursuant to which each Seller agreed not to, directly or indirectly, circumvent or compete with the Company or the Target by pursuing, acquiring, marketing, financing, leasing, developing, or otherwise exploiting any opportunity relating to the Prospect or the AMI without the Company's prior written consent.

The Membership Interest Purchase Agreement provides for mutual indemnification against losses arising from any breach of representations, warranties, or covenants. Sellers' indemnification obligations are joint and several. There is no cap on indemnification liability.

Exploration Agreement

Concurrently with execution of the Membership Interest Purchase Agreement, the Company entered into an exploration agreement (the "Exploration Agreement") with the Target and an experienced local counterparty to serve as lease manager (the "Lease Manager"). The Exploration Agreement governs the parties' respective rights and obligations with respect to the Prospect, with the intent of facilitating the testing of the formation within the AMI through lateral drilling.

The Exploration Agreement addresses: (i) existing leases for the approximately 3,000 net acres the Target already owns ("Existing Leases"), (ii) leases for acreage within the AMI that was previously leased ("Previous Leases"), and (iii) new leases intended to be acquired within the AMI representing the expansion of the acreage footprint ("New Leases"). Pursuant to the Exploration Agreement, the Company will commit up to $4,000,000 to finance the leasing program, with no less than $2,500,000 dedicated to leasing at the prevailing market rates.

The Lease Manager will serve as the lease manager for the Prospect providing the Company with leasing services, including oversight of leasing agents, supervision of lease broker personnel, lease-database reporting, and digital mapping. The Lease Manager will receive a lease management fee of $50 per acre for any New Lease acquired.

Pursuant to the terms of the Exploration Agreement, the Company is required to use commercially reasonable efforts to initiate a mandatory well operation consisting of directional drilling of a new lateral wellbore out of the Well, with a total measured lateral length of no less than 4,000 feet, to a mutually agreed bottom-hole location and true vertical depth (the "Mandatory Well Operation"). The Exploration Agreement contemplates that the Mandatory Well Operation will occur no later than February 15, 2027, subject to customary exceptions.

The Exploration Agreement runs from the effective date until six months after the expiration of the last lease acquired within the AMI, unless extended in writing. The Company may remove the Lease Manager at any time for convenience upon ten business days' written notice or immediately for cause; however, the Lease Manager's ORRI will survive removal.

The Exploration Agreement reserves overriding royalty interests ("ORRI") to both the Lease Manager and Cynergy Advisors, LLC (together with its assignee, "Cynergy"). As a result, the Company's net revenue interest in the Prospect is approximately 75%. Kevin Sellers, the founder and managing member of Cynergy, has an indirect material interest in the Cynergy ORRI. Mr. Sellers has been appointed to serve as the Company's Chief Executive Officer and as a member of the Board. For additional information regarding Mr. Sellers appointment as Chief Executive Officer, see the section titled "*Appointment of Chief Executive Officer*" in Item 5.02 of this Current Report.

The Exploration Agreement provides for mutual indemnification against losses arising from breach of the agreement, breach of representations and warranties, and any claim impairing a party's ORRI.

The foregoing descriptions of the Membership Interest Purchase Agreement and Exploration Agreement do not purport to be complete and are subject to and qualified in their entirety by reference to the text of such documents, redacted copies of which are attached as Exhibits 10.3 and 10.4, respectively, to this Current Report, and are incorporated herein by reference.

Cynergy Consulting Agreement

On July 24, 2026, the Company entered into a consulting and due diligence engagement agreement (the "Consulting Agreement") with Cynergy pursuant to which it was engaged to coordinate and oversee the closing of the Company's acquisition, and to provide advisory and technical support services in connection with the drilling and development of the Well. Under the Consulting Agreement, Cynergy is authorized to engage third-party vendors and service providers on behalf of the Company in furtherance of these services, subject to certain thresholds. Mr. Sellers is responsible for directing and overseeing the services provided by Cynergy on behalf of the Company.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Transition of Chief Executive Officer

Effective August 24, 2026 (the "Separation Date"), Joseph Hammer, the Chief Executive Officer and Chairman of the Board of the Company, is resigning from his role as Chief Executive Officer. He will continue to serve as Chairman of the Board on an interim basis.

Appointment of Chief Executive Officer and Director

The Board has appointed Kevin Sellers to serve as the Company's Chief Executive Officer and as a member of the Board, effective immediately upon Mr. Hammer's resignation. In his role as Chief Executive Officer, Mr. Sellers will serve as the Company's principal executive officer.

Mr. Sellers, age 54, has served as the Founder and Managing Member of Cynergy, a boutique investment banking firm based in Central Texas that specializes in upstream and midstream oil and gas transactions since 2009. Under his leadership, Cynergy has been a party to more than $5.0 billion in closed or advised transactions, and built Cynergy into a trusted advisor known for combining deep owner-operator experience with sophisticated capital markets expertise. Prior to founding Cynergy, Mr. Sellers co-founded and served as Managing Partner of KMR Capital, LLC, a boutique energy-focused investment bank, from 2003 to 2009, where he completed multiple debt and equity raises and helped launch three independent exploration and production companies. Concurrently, he co-founded and operated the Spyglass exploration and production partnerships, including Spyglass Cedar Creek LP, where he directed operations across 130,000 acres in the Rockies, raised equity and debt capital, and structured joint ventures. Mr. Sellers holds FINRA Series 7, 63, and 67 licenses and is a graduate of Texas State University.

In connection with his appointment as Chief Executive Officer, Mr. Sellers entered into an employment agreement with the Company (the "Sellers Employment Agreement") effective August 24, 2026. Pursuant to the terms of the Sellers Employment Agreement, Mr. Sellers is an at-will employee and entitled to an initial base salary of $285,000, which will automatically increase to $315,000 upon the timely submission of the Company's Annual Report on Form 10-K for the year ending December 31, 2026, and will further increase to $400,000 upon the Well achieving a specified minimum production test rate. Mr. Sellers is eligible for an annual cash incentive bonus with a target amount equal to 75% of his base salary, to be paid based performance objectives established annually by the Board or compensation committee of the Board (the "Compensation Committee").

The Sellers Employment Agreement also provides that, upon any Sale Transaction (as defined in the Sellers Employment Agreement), Mr. Sellers will be entitled to a cash transaction bonus calculated based on the value of the cash consideration actually received by the Company in the Sale Transaction (the "Company Transaction Bonus"), with the bonus amount calculated based on a tiered approach with payments ranging from 5% to 2% of the Sale Transaction as the value increases. Mr. Sellers will remain eligible for the Company Transaction Bonus if his employment is terminated by the Company without Cause or he resigns for Good Reason (each as defined in the Sellers Employment Agreement) within 12 months prior to the closing of a Sale Transaction, subject to certain conditions.

In addition, Mr. Sellers is entitled to participate in any retirement, paid time off, and health and welfare benefit plans, practices, policies and arrangements the Company may offer. Mr. Sellers is also entitled to reimbursement for reasonable expenses incurred in connection with the performance of his duties not to exceed $2,500 per month.

In connection with Mr. Sellers' appointment, the Compensation Committee approved a grant of 50,000 restricted stock units (the "RSUs") as an inducement award pursuant to Nasdaq Listing Rule 5635(c)(4). Twenty-five percent of the RSUs will vest on the first anniversary of the grant date, and the remainder will vest in 12 equal quarterly installments thereafter, in each case subject to Mr. Sellers' continued employment, provided the RSUs will vest in full upon a change of control transaction.

If Mr. Sellers' employment is terminated by the Company without Cause or he resigns for Good Reason, he will be entitled to receive (i) 12 months of continued base salary, (ii) any annual incentive bonus earned but unpaid, (iii) any Company Transaction Bonus earned, but unpaid, and any Company Transaction Bonus on any Sale Transaction that occurs within the 12 months following the date of termination, subject to certain conditions, and (iv) continued medical and dental coverage under COBRA for up to 12 months, in each case subject to his execution of a release of claims in favor of the Company and his continued compliance with the restrictive covenants described below.

The Sellers Employment Agreement includes customary non-competition, employee and customer non-solicitation, non-disparagement and confidentiality covenants, which apply during Mr. Sellers' employment and for 12 months following termination. The non-competition covenant is subject to an exception permitting Mr. Sellers to continue his activities as a principal of Cynergy, provided that neither he nor Cynergy pursues or exploits any opportunity relating to the Prospect or AMI without the Company's prior written consent.

Mr. Sellers will not receive any additional compensation for service on the Board.

There are no arrangements or understandings between Mr. Sellers and any other person pursuant to which he was appointed as Chief Executive Officer or director. There are no family relationships between Mr. Sellers and any director or executive officer. Except for (i) his employment relationship with the Company and the compensation arrangements arising in connection therewith, (ii) his indirect material interest in the Cynergy ORRI, and (iii) the Consulting Agreement, there are no relationships involving Mr. Sellers that are required to be reported pursuant to Item 404(a) of Regulation S-K. The Sellers Employment Agreement was approved by the disinterested members of the Board.

The foregoing description of the Sellers Employment Agreement does not purport to be complete and is subject to and qualified in its entirety by reference to the complete text of such document, which is attached as Exhibit 10.5 to this Current Report, and is incorporated herein by reference.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The Company filed a Certificate of Amendment to the Company's Articles of Incorporation, as amended (the "Certificate of Amendment"), with the Nevada Secretary of State to effect a change of the Company's name from "Expion360 Inc." to "Expion Energy, Inc." (the "Name Change"), which is intended to better align with the Company's expanded energy platform and broadened operating strategy as a result of the acquisition of the oil and gas exploration opportunity as discussed above.

The Certificate of Amendment became effective as of 12:01 a.m. Pacific Time on August 20, 2026. The Board approved the Name Change and the Certificate of Amendment pursuant to Section 78.390 of the Nevada Revised Statutes (the "NRS"). Pursuant to NRS Section 78.390(8), stockholder approval was not required to complete the Name Change or approve the Certificate of Amendment.

In connection with the Name Change, the Board also approved an amendment (the "Bylaws Amendment") of the Company's Amended and Restated Bylaws (as amended, the "Bylaws"), effective upon the effectiveness of the Certificate of Amendment, to reflect the Name Change. No other changes were made to the Bylaws.

The Name Change does not affect the rights of the Company's securityholders. Securityholders do not need to take any action in connection with the Name Change. The CUSIP number for the Common Stock will remain 30218B308.

The foregoing descriptions of the Certificate of Amendment and the Bylaws Amendment do not purport to be complete and are subject to and qualified in their entirety by reference to the complete text of such documents, which are attached as Exhibits 3.2 and 3.3, respectively, to this Current Report, and are incorporated herein by reference.

Item 7.01. Regulation FD Disclosure.

On August 24, 2026, the Company issued (i) a press release announcing the initial closing of the Private Placement, and (ii) a separate press release announcing the Company's acquisition of the oil and gas exploration opportunity and the appointment of Mr. Sellers as Chief Executive Officer and a member of the Board. Copies of the press releases are attached hereto as Exhibit 99.1 and Exhibit 99.2, respectively.

The information provided in this Item 7.01, including Exhibit 99.1 and Exhibit 99.2, is being furnished and 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 liabilities of that section. Such information shall not be deemed incorporated by reference into any filing of the Company under the Securities Act or the Exchange Act whether made before or after the date hereof, regardless of any general incorporation language in such filing, except as otherwise expressly set forth by specific reference in such filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
3.1	Form of Certificate of Designation of Preferences, Rights and Limitations of Series A-1 8% Convertible Preferred Stock
3.2	Certificate of Amendment of Articles of Incorporation, effective as of August 20, 2026
3.3	Certificate of Amendment of Amended and Restated Bylaws, dated August 20, 2026
4.1	Form of 8% Convertible Debenture Due August 21, 2029
4.2	Form of Common Stock Purchase Warrant
10.1	Form of Securities Purchase Agreement
10.2	Form of Registration Rights Agreement
10.3*	Membership Interest Purchase Agreement, dated August 21, 2026, by and among the Company and the Sellers
10.4*	Exploration Agreement, dated August 21, 2026, by and among the Company, Target and the Lease Manager
10.5*	Employment Agreement, dated August 24, 2026, by and between the Company and Kevin Sellers
99.1	Press Release, dated August 24, 2026 (Oil and Gas Exploration Opportunity)
99.2	Press Release, dated August 24, 2026 (Private Placement)
104	Cover Page Interactive Data File (embedded within the inline XBRL document)

* Portions of this exhibit have been redacted and schedules and certain exhibits have been omitted in accordance with Item 601(b)(10)(iv) of Regulation S-K. The Company agrees to furnish supplementally an unredacted copy of the exhibit and to furnish supplementally any omitted schedules and exhibits to the Securities and Exchange Commission upon its request.

Additional Information and Where to Find It

This filing may be deemed solicitation material in respect of the Company's intention to seek Shareholder Approval that, if approved, will enable (a) the Convertible Debentures to automatically convert into shares of Series A-1 Preferred Stock, (b) the Purchasers to elect to purchase shares of AIR Preferred Stock pursuant to the exercise of the Additional Investment Right, and (c) the Purchasers to be issued, under applicable Nasdaq listing rules, 19.99% or more of the Company's outstanding shares of Common Stock in connection with the transactions contemplated by the Purchase Agreement, including (i) shares issuable upon conversion of the Series A-1 Preferred Stock, (ii) shares issuable upon conversion of the AIR Preferred Stock, (iii) shares issuable in payment of dividends accrued on shares of Series A-1 Preferred Stock and/or AIR Preferred Stock, and (iv) shares issuable upon exercise of the Warrants, as well as in connection with any future adjustments of the conversion price, stated value, or exercise price. This filing does not constitute a solicitation of any vote or approval of the proposals to be voted on at any meeting of the Company's stockholders. In connection with such a meeting, the Company intends to file a preliminary proxy statement on Schedule 14A with the SEC and may file additional relevant materials with the SEC. Following the filing of a definitive proxy statement with the SEC, the Company will mail or otherwise provide the definitive proxy statement and a proxy card to each stockholder entitled to vote at the meeting regarding the business to be conducted at the meeting. This document is not a substitute for the proxy statement or any other document that may be filed by the Company with the SEC.

BEFORE MAKING ANY VOTING DECISION, THE COMPANY'S STOCKHOLDERS ARE URGED TO READ CAREFULLY AND IN THEIR ENTIRETY THE PROXY STATEMENT, AND ANY AMENDMENTS OR SUPPLEMENTS THERETO, AND ANY OTHER RELEVANT DOCUMENTS THAT THE COMPANY FILES WITH THE SEC WHEN THEY BECOME AVAILABLE BEFORE MAKING ANY VOTING DECISION WITH RESPECT TO THE BUSINESS TO BE CONDUCTED AT THE STOCKHOLDER MEETING BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE BUSINESS TO BE CONDUCTED AT SUCH MEETING.

Stockholders may obtain a copy of the proxy statement and other documents the Company files with the SEC (when they become available) free of charge through the website maintained by the SEC at www.sec.gov. In addition, the Company makes available free of charge on its investor relations website at https://investors.expion360.com copies of materials it files with, or furnishes to, the SEC.

Participants in Solicitation

The Company and its directors, executive officers and certain employees and other persons may be deemed to be participants in the solicitation of proxies from the Company's stockholders in connection with the business to be conducted at the meeting of stockholders. Information regarding the names, affiliations and direct or indirect interests, by security holdings or otherwise, of the participants will be set forth in the definitive proxy statement to be filed in connection with the meeting of stockholders, which, when available, may be obtained free of charge from the sources indicated above.

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.

EXPION ENERGY, INC.

Date: August 24, 2026	By:	*/s/ Shawna Bowin*
	Name:	Shawna Bowin
	Title:	Chief Financial Officer

Exhibit 3.1

EXPION ENERGY, INC.

CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES A-1 8% CONVERTIBLE PREFERRED STOCK

The undersigned, [_____], does hereby certify that:

1. [_____] is the [_____] of [_____], a Nevada corporation (the "Corporation").

2. The following resolutions were duly adopted by the board of directors of the Corporation:

WHEREAS, the Articles of Incorporation of the Corporation (as amended, the "Articles") authorize the issuance of up to 20,000,000 shares of preferred stock, par value $0.001 per share, issuable from time to time by the Corporation in one or more series and for such consideration as shall be determined by the board of directors of the Corporation (the "Board of Directors"), of which no shares of preferred stock have been issued; and

WHEREAS, the shareholders of the Corporation previously authorized the Board of Directors, pursuant to an amendment to the Articles, to designate the voting powers, designations, preferences, limitations, restrictions and relative rights of the Preferred Stock, and based on such authority, the Board of Directors now desires to designate a series of the Preferred Stock and to determine the consideration to be paid for the preferred stock.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby provide for the issuance of a series of preferred stock for cash or exchange of other securities, rights or property of the Corporation, and does hereby designate the rights, preferences, restrictions and other matters relating to such series of preferred stock as follows:

TERMS OF SERIES A-1 PREFERRED STOCK

Section 1. Definitions. For the purposes hereof, the following terms shall have the following meanings:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

"Alternate Consideration" shall have the meaning set forth in Section 7(e).

"Applicable Conversion Price" shall have the meaning set forth in Section 7(b).

"Attribution Parties" shall have the meaning set forth in Section 6(d).

"Base Conversion Price" shall have the meaning set forth in Section 7(b).

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 6(d).

"Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home", "shelter-in-place", "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York are generally open for use by customers on such day.

"Buy-In" shall have the meaning set forth in Section 6(c).

"Closing" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the common stock of the Corporation, par value $0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Corporation which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Conversion Amount" means, with respect to the particular conversion of Preferred Stock at issue, the "Stated Value of shares of Preferred Stock to be Converted" as reflected on the Notice of Conversion for such conversion.

"Conversion Date" shall have the meaning set forth in Section 6(a).

"Conversion Failure" shall have the meaning set forth in Section 6(c).

"Conversion Price" shall have the meaning set forth in Section 6(b).

"Conversion Shares" means the shares of Common Stock issuable upon conversion of the shares of Preferred Stock in accordance with the terms hereof.

"Dilutive Issuance" shall have the meaning set forth in Section 7(b).

"Dilutive Issuance Notice" shall have the meaning set forth in Section 7(b).

"Distribution" shall have the meaning set forth in Section 7(d).

"Dividend Conversion Rate" means the lesser of (a) the Conversion Price or (b) 90% of the arithmetic average of the three (3) lowest VWAPs during the five (5) Trading Days prior to the applicable Dividend Payment Date provided that the Dividend Conversion Rate shall not be less than the Floor Price.

"Dividend Conversion Shares" shall have the meaning set forth in Section 3(a).

"Dividend Payment Date" shall have the meaning set forth in Section 3(a).

"Dividend Share Amount" shall have the meaning set forth in Section 3(a).

"Economic Difference" shall have the meaning set forth in Section 7(b).

"Effective Date" means the date that the Registration Statement filed by the Corporation pursuant to the Registration Rights Agreement is first declared effective by the Commission.

"Equity Conditions" means, during the period in question, (a) the Corporation shall have duly honored all conversions scheduled to occur or occurring by virtue of one or more Notices of Conversion of the applicable Holder on or prior to the dates so requested or required, if any, (b) the Corporation shall have paid all amounts owing to the applicable Holder in respect of such Holder's shares of Preferred Stock, (c)(i) there is an effective Registration Statement pursuant to which the Holders are permitted to utilize the prospectus thereunder to resell all of the shares of Common Stock issuable in lieu of cash payments of dividends pursuant to Section 3, or (ii) all of the shares issuable in lieu of cash payments of dividends pursuant to Section 3 may be resold pursuant to Rule 144 without volume or manner-of-sale restrictions or current public information requirements as determined by counsel to the Corporation, (d) the Common Stock is trading on a Trading Market, (e) there is a sufficient number of authorized, but unissued and otherwise unreserved shares of Common Stock issuable in lieu of cash payments of dividends pursuant to Section 3, (f) the issuance of the shares in question to the applicable Holder would not violate the limitations set forth in Section 6(d) and Section 6(e) herein, (g) there has been no public announcement of a pending or proposed Fundamental Transaction that has not been consummated, and (h) the applicable Holder is not in possession of any material non-public information regarding the Corporation.

"Excess Shares" shall have the meaning set forth in Section 6(d).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Exempt Issuance" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"First Closing Date" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"Floor Price" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"Fundamental Transaction" shall have the meaning set forth in Section 7(e).

"GAAP" means United States generally accepted accounting principles.

"Holder" shall have the meaning set forth in Section 2.

"Indebtedness" means (a) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business) evidenced by bonds, debentures, notes, loan agreements or similar instruments, (b) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Corporation's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business and (c) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP.

"Issuable Maximum" shall have the meaning set forth in Section 1.1 of the Purchase Agreement.

"Junior Securities" means the Common Stock and all other capital stock of the Corporation other than those shares of capital stock of the Corporation which are explicitly senior to or pari passu with the Preferred Stock in dividend rights or liquidation preference.

"Liens" means a lien, charge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Liquidation" shall have the meaning set forth in Section 5.

"New York Courts" shall have the meaning set forth in Section 11(d).

"Notice of Conversion" shall have the meaning set forth in Section 6(a).

"Original Issue Date" means the date of the first issuance of any shares of the Preferred Stock regardless of the number of transfers of any particular shares of Preferred Stock and regardless of the number of certificates which may be issued to evidence such Preferred Stock.

"Permitted Indebtedness" means (a) the Indebtedness existing on the Original Issue Date and set forth on Schedule 3.1(bb) attached to the Purchase Agreement and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder, (b) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations not in connection with money borrowed, in each case provided in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business, (c) Indebtedness (i) resulting from a bank or other financial institution honoring a check, draft or similar instrument in the ordinary course of business or (ii) arising under or in connection with cash management services in the ordinary course of business, (d) Indebtedness consisting of the financing of insurance premiums payable within one (1) year, and (e) lease obligations and purchase money indebtedness incurred in connection with the acquisition of capital assets and lease obligations with respect to newly acquired or leased assets.

"Permitted Lien" means the individual and collective reference to the following: (a) Liens for taxes, assessments and other governmental charges or levies not yet due or Liens for taxes, assessments and other governmental charges or levies being contested in good faith and by appropriate proceedings for which adequate reserves (in the good faith judgment of the management of the Corporation) have been established in accordance with GAAP, (b) Liens imposed by law which were incurred in the ordinary course of the Corporation's business, such as carriers', warehousemen's and mechanics' Liens, statutory landlords' Liens, and other similar Liens arising in the ordinary course of the Corporation's business, and which (i) do not individually or in the aggregate materially detract from the value of such property or assets or materially impair the use thereof in the operation of the business of the Corporation, or (ii) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing for the foreseeable future the forfeiture or sale of the property or asset subject to such Lien, (c) pledges or deposits in the ordinary course of business in connection with (i) workers' compensation, unemployment insurance and other social security legislation, and (ii) public utility services provided to the Corporation, (d) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business, (e) easements, rights-of-way, restrictions and other similar encumbrances affecting real property that, in the aggregate, are not substantial in amount, and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Corporation, and any zoning or similar law or right reserved to or vested in any governmental authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Corporation, (f) any interest or title of a lessor, sublessor, licensor or sublicensor under leases or licenses that are entered into in the ordinary course of business, (g) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business that do not (i) interfere in any material respect with the ordinary conduct of the business of the Corporation, or (ii) secure any Indebtedness, Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business, (h) any Lien existing on any property or asset prior to the acquisition thereof by the Corporation or existing on any property or asset of any Person that becomes a subsidiary of the Corporation after the date of the Purchase Agreement prior to the time such Person becomes a subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Corporation or any subsidiary and (iii) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a subsidiary, as the case may be, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof, (i) Liens incurred in connection with Permitted Indebtedness under clause (a) thereunder, and (j) Liens incurred in connection with Permitted Indebtedness under clause (e) thereunder, provided that such Liens are not secured by assets of the Corporation other than the assets so acquired or leased.

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Preferred Stock" shall have the meaning set forth in Section 2.

"Prepayment Election" shall have the meaning set forth in Section 6(c).

"Purchase Agreement" means the Securities Purchase Agreement, dated as of August 21, 2026, among the Corporation and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

"Registration Rights Agreement" means the Registration Rights Agreement, dated on or about the date of the Purchase Agreement, among the Corporation and the original Holders, in the form of Exhibit C attached to the Purchase Agreement.

"Registration Statement" means a registration statement meeting the requirements set forth in the Registration Rights Agreement and covering the resale of the Underlying Shares and the Warrant Shares by each Holder as provided for in the Registration Rights Agreement.

"Required Holders" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Share Delivery Date" shall have the meaning set forth in Section 6(c).

"Stated Value" shall have the meaning set forth in Section 2, as the same may be increased pursuant to Section 7(b).

"Shareholder Approval" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"Subscription Amount" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"Successor Entity" shall have the meaning set forth in Section 7(e).

"Trading Day" means a day on which the principal Trading Market is open for business.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, or any successors to any of the foregoing).

"Transaction Documents" means this Certificate of Designation, the Purchase Agreement, the Registration Rights Agreement, the Warrants, all exhibits and schedules hereto and thereto and any other documents or agreements executed in connection with the transactions contemplated pursuant to the Purchase Agreement.

"Transfer Agent" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"Underlying Shares" means the shares of Common Stock issued and issuable upon conversion of the Preferred Stock, and issued and issuable in payment of dividends on the Preferred Stock in accordance with the terms of this Certificate of Designation.

"Variable Rate Transaction" shall have the meaning ascribed to such term in Section 4.13(b) of the Purchase Agreement.

"VWAP" shall have the meaning ascribed to such term in Section 1.1 of the Purchase Agreement.

"Warrants" means, collectively, the Common Stock Purchase Warrants to purchase shares of Common Stock delivered to the Holders on the First Closing Date in accordance with Section 2.2(a) of the Purchase Agreement, in the form of Exhibit D attached to the Purchase Agreement.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants.

Section 2. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series A-1 8% Convertible Preferred Stock (the "Preferred Stock") and the number of shares so designated shall be up to 9,000 (which shall not be subject to increase without the written consent of the holders of a majority of the then outstanding shares of the Preferred Stock (each, a "Holder" and collectively, the "Holders")). Each share of Preferred Stock shall have a par value of $0.001 per share and a stated value equal to $1,000, subject to increase as set forth in Section 7(b) below (the "Stated Value").

Section 3. Dividends.

a) Dividends in Cash or in Kind. From and after the one year anniversary of the Original Issue Date, Holders shall be entitled to receive, and the Corporation shall pay, cumulative dividends at the rate per share (as a percentage of the Stated Value per share) of 8% per annum, payable quarterly on January 1, April 1, July 1 and October 1 (any such payment date, the "Dividend Payment Date") in cash, or at the Corporation's option provided that the Equity Conditions are then met, in duly authorized, validly issued, fully paid and non-assessable registered shares of Common Stock as set forth in this Section 3(a) or a combination thereof (the dollar amount to be paid in shares of Common Stock, the "Dividend Share Amount"). If any Dividend Payment Date is not a Trading Day, the applicable payment shall be due on the next succeeding Trading Day. In addition, as a condition to paying dividends in shares of Common Stock, as to such Dividend Payment Date, but not more than five (5) Trading Days prior to such Dividend Payment Date, the Corporation shall have delivered to each Holder's account with The Depository Trust Company a number of shares of Common Stock to be applied against such Dividend Share Amount equal to the quotient of (x) the applicable Dividend Share Amount divided by (y) the Dividend Conversion Rate in effect as of the Dividend Payment Date or, if the Dividend Payment Date is not a Trading Day, the most recent Trading Day preceding such Dividend Payment Date (the "Dividend Conversion Shares"). The Holders shall have the same rights and remedies with respect to the delivery of any such shares as if such shares were being issued pursuant to Section 6.

b) Dividend Calculations. Dividends on the Preferred Stock shall be calculated on the basis of a 360-day year, consisting of twelve 30 calendar day periods, and shall accrue daily commencing on the one year anniversary of the Original Issue Date, and shall be deemed to accrue from such date whether or not earned or declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends. Payment of dividends in shares of Common Stock shall otherwise occur pursuant to Section 6(c)(i) herein and, solely for purposes of the payment of dividends in shares, the Dividend Payment Date shall be deemed the Conversion Date. Dividends shall cease to accrue with respect to any Preferred Stock converted upon the delivery of the Conversion Shares in accordance with Section 6(c)(i) herein. Except as otherwise provided herein, if at any time the Corporation pays dividends partially in cash and partially in shares, then such payment shall be distributed ratably among the Holders based upon the number of shares of Preferred Stock held by each Holder on such Dividend Payment Date.

c) Late Fees. Any dividends, whether paid in cash or shares of Common Stock (or a combination thereof), that are not paid within three Trading Days following a Dividend Payment Date shall continue to accrue and shall entail a late fee, which must be paid in cash, at the rate of 15% per annum or the lesser rate permitted by applicable law which shall accrue daily from the Dividend Payment Date through and including the date of actual payment in full.

d) Other Securities. So long as any Preferred Stock shall remain outstanding, the Corporation shall not, directly or indirectly, redeem, purchase or otherwise acquire directly or indirectly any Junior Securities. So long as any Preferred Stock shall remain outstanding, the Corporation shall not, directly or indirectly, pay or declare any dividend or make any distribution upon (other than a dividend or distribution described in Section 6 or dividends due and paid in the ordinary course on preferred stock of the Corporation at such times when the Corporation is in compliance with its payment and other obligations hereunder), nor shall any distribution be made in respect of, any Junior Securities as long as any dividends due on the Preferred Stock remain unpaid, nor shall any monies be set aside for or applied to the purchase or redemption (through a sinking fund or otherwise) of any Junior Securities or shares pari passu with the Preferred Stock.

Section 4. Voting Rights. Except as otherwise provided herein or as otherwise required by law, the Preferred Stock shall have no voting rights.

Section 5. Liquidation. Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary (a "Liquidation"), the Holders shall be entitled to receive out of the assets, whether capital or surplus, of the Corporation an amount equal to the Stated Value, plus any accrued and unpaid dividends thereon and any other fees or liquidated damages then due and owing thereon under this Certificate of Designation, for each share of Preferred Stock before any distribution or payment shall be made to the holders of any Junior Securities, and if the assets of the Corporation shall be insufficient to pay in full such amounts, then the entire assets to be distributed to the Holders shall be ratably distributed among the Holders in accordance with the respective amounts that would be payable on such shares if all amounts payable thereon were paid in full. Upon payment of the full preferential amounts set forth above in respect of a share of Preferred Stock, such share of Preferred Stock shall be immediately surrendered and cancelled without any further action on the part of the Corporation or the Holder thereof. A Fundamental Transaction shall not be deemed a Liquidation. The Corporation shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder.

Section 6. Conversion.

a) Conversions at Option of Holder. Each share of Preferred Stock shall be convertible, at any time and from time to time from and after the Original Issue Date at the option of the Holder thereof, into that number of shares of Common Stock (subject to the limitations set forth in Section 6(d) and Section 6(e)) determined by dividing the Stated Value of such share of Preferred Stock by the Conversion Price. Holders shall effect conversions by providing the Corporation with the form of conversion notice attached hereto as Annex A (a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Preferred Stock to be converted, the number of shares of Preferred Stock owned prior to the conversion at issue, the number of shares of Preferred Stock owned subsequent to the conversion at issue and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Holder delivers by .pdf via email such Notice of Conversion to the Corporation (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. No ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. To effect conversions of shares of Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Preferred Stock to the Corporation unless all of the shares of Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Preferred Stock promptly following the Conversion Date at issue. Shares of Preferred Stock converted into Common Stock or redeemed in accordance with the terms hereof shall be cancelled and shall not be reissued.

b) Conversion Price. The conversion price for the Preferred Stock shall equal $4.25, subject to adjustment herein (the "Conversion Price").

c) Mechanics of Conversion.

i. Delivery of Conversion Shares Upon Conversion. Not later than the Standard Settlement Period (as defined below) after each Conversion Date (the "Share Delivery Date"), the Corporation shall deliver, or cause to be delivered, to the converting Holder (A) the number of Conversion Shares being acquired upon the conversion of the Preferred Stock which, on or after the earlier of (i) the six month anniversary of the Original Issue Date, or (ii) the Effective Date, shall be free of restrictive legends and trading restrictions (other than those which may then be required by the Purchase Agreement, or as a result of the Holder being deemed an Affiliate of the Corporation), and (B) a bank check or wire transfer in the amount of accrued and unpaid dividends (if the Corporation has elected or is required to pay accrued dividends in cash). The Corporation shall deliver the Conversion Shares required to be delivered by the Corporation under this Section 6 electronically through the Depository Trust Company's Fast Automated Securities Transfer Program ("FAST") or another established clearing corporation performing similar functions. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Corporation's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion.

ii. Failure to Deliver Conversion Shares. If, in the case of any Notice of Conversion, such Conversion Shares are not delivered to or as directed by the applicable Holder by the Share Delivery Date, if the Transfer Agent is not participating in FAST, to issue and deliver to the Holder (or its designee) a certificate for the number of Conversion Shares to which the Holder is entitled and register such Conversion Shares on the Corporation's register of members or, if the Transfer Agent is participating in FAST, to credit the balance account of the Holder or the Holder's designee with DTC for such number of Conversion Shares to which the Holder is entitled upon the Holder's conversion of the Preferred Stock (as the case may be) (a "Conversion Failure"), then the Holder may by written notice to the Corporation (in lieu of receiving the Conversion Shares subject to such Conversion Failure), require the Corporation to prepay, in cash, up to 20% of the Conversion Amount subject to such Conversion Failure at a prepayment price equal to 110% of the Conversion Amount subject to such Conversion Failure (a "Prepayment Election"). In the event of a Conversion Failure, the Holder shall be entitled to elect by written notice to the Corporation at any time on or before its receipt of the Conversion Shares subject to such Conversion Failure, to rescind such Conversion, in which event the Corporation shall promptly return to the Holder any original Preferred Stock certificate delivered to the Corporation and the Holder shall promptly return to the Corporation the Conversion Shares issued to such Holder pursuant to the rescinded Notice of Conversion, provided, however, that the Holder shall not be entitled to rescind such Conversion as to any portion of the Conversion Amount for which the Holder has made a Prepayment Election and such payment has been made by the Corporation.

iii. Obligation Absolute; Partial Liquidated Damages. The Corporation's obligation to issue and deliver the Conversion Shares upon conversion of Preferred Stock in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by a 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 such Holder or any other Person of any obligation to the Corporation or any violation or alleged violation of law by such Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligation of the Corporation to such Holder in connection with the issuance of such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Corporation of any such action that the Corporation may have against such Holder. In the event a Holder shall elect to convert any or all of the Stated Value of its Preferred Stock, the Corporation may not refuse conversion based on any claim that such Holder or any one associated or affiliated with such Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and/or enjoining conversion of all or part of the Preferred Stock of such Holder shall have been sought and obtained. In the absence of such injunction, the Corporation shall issue Conversion Shares and, if applicable, cash, upon a properly noticed conversion. In the event of a Conversion Failure, the Corporation shall pay to such Holder, in cash, as liquidated damages and not as a penalty, for each $5,000 of Stated Value of Preferred Stock being converted, $50 per Trading Day (increasing to $100 per Trading Day on the third Trading Day after the Share Delivery Date) for each Trading Day after the Share Delivery Date until such Conversion Shares are delivered or Holder rescinds such conversion; provided, however, that (i) such liquidated damages shall not exceed 10% of the applicable Conversion Amount, and (ii) such liquidated damages shall not apply to or be payable in respect of any Conversion Amount for which the Holder has made a Prepayment Election. Nothing herein shall limit a Holder's right to pursue actual damages for the Corporation's failure to deliver Conversion Shares within the period specified herein and such Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit a Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

iv. Compensation for Buy-In on Failure to Timely Deliver Conversion Shares Upon Conversion. In addition to any other rights available to the Holder, if the Corporation fails for any reason to deliver to a Holder the applicable Conversion Shares by the Share Delivery Date pursuant to Section 6(c)(i), and the Holder has not rescinded such conversion pursuant to Section 6(c)(ii), and if after such Share Delivery Date such Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by such Holder of the Conversion Shares which such Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Corporation shall (A) pay in cash to such Holder (in addition to any other remedies available to or elected by such Holder) the amount, if any, by which (x) such Holder's total purchase price (including any brokerage commissions) for the Common Stock so purchased exceeds (y) the product of (1) the aggregate number of shares of Common Stock that such Holder was entitled to receive from the conversion at issue multiplied by (2) the actual sale price at which the sell order giving rise to such purchase obligation was executed (including any brokerage commissions) and (B) at the option of such Holder, either reissue (if surrendered) the shares of Preferred Stock equal to the number of shares of Preferred Stock submitted for conversion (in which case, such conversion shall be deemed rescinded) or deliver to such Holder the number of shares of Common Stock that would have been issued if the Corporation had timely complied with its delivery requirements under Section 6(c)(i). For example, if a Holder purchases shares of Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted conversion of shares of Preferred Stock with respect to which the actual sale price of the Conversion Shares (including any brokerage commissions) giving rise to such purchase obligation was a total of $10,000 under clause (A) of the immediately preceding sentence, the Corporation shall be required to pay such Holder $1,000. The Holder shall provide the Corporation written notice indicating the amounts payable to such Holder in respect of the Buy-In and, upon request of the Corporation, evidence of the amount of such loss. 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 Corporation's failure to timely deliver the Conversion Shares upon conversion of the shares of Preferred Stock as required pursuant to the terms hereof.

v. Reservation of Shares Issuable Upon Conversion. The Corporation covenants that it will reserve and keep available out of its duly authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Preferred Stock and payment of dividends on the Preferred Stock, each as herein provided, free from preemptive rights or any other actual contingent purchase rights of Persons other than the Holder (and the other holders of the Preferred Stock), the maximum number of shares of Common Stock then available for such purpose and, from and after the date on which the Corporation has a sufficient number of authorized and unissued shares of Common Stock available therefor, including following receipt of the Shareholder Approval (as defined in the Purchase Agreement) and the effectiveness of any related amendment to the Corporation's articles of incorporation, not less than such aggregate number of shares of Common Stock as shall be issuable (taking into account the adjustments and restrictions of Section 7) upon the conversion of the then outstanding shares of Preferred Stock and payment of dividends hereunder. If at any time the Corporation does not have a sufficient number of authorized and unissued shares of Common Stock available to reserve the number of shares of Common Stock required to be reserved pursuant to this Section, the Corporation shall use commercially reasonable efforts to obtain the Shareholder Approval and take such other corporate action as may be necessary to increase its authorized shares of Common Stock or otherwise make a sufficient number of shares of Common Stock available for such purpose, in each case subject to the terms and conditions set forth in Section 4.11 of the Purchase Agreement. The Corporation covenants that all shares of Common Stock that shall be so issuable shall, upon issue, be duly authorized, validly issued, fully paid and nonassessable.

vi. Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Preferred Stock. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall round up to the next whole share. Notwithstanding anything to the contrary contained herein, but consistent with the provisions of this subsection with respect to fractional Conversion Shares, nothing shall prevent any Holder from converting fractional shares of Preferred Stock.

vii. Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holders of such shares of Preferred Stock and the Corporation shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid. The Corporation shall pay all Transfer Agent fees required for same-day processing of any Notice of Conversion and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Conversion Shares.

d) Beneficial Ownership Limitation. The Corporation shall not effect any conversion of the Preferred Stock, and a Holder shall not have the right to convert any portion of the Preferred Stock, to the extent that, after giving effect to the conversion set forth on the applicable Notice of Conversion, such Holder (together with such Holder's Affiliates, and any Persons acting as a group together with such Holder or any of such Holder's Affiliates (such Persons, "Attribution Parties")) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon conversion of the Preferred Stock with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted Stated Value of Preferred Stock beneficially owned by such Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Corporation subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, the Preferred Stock and the Warrants) beneficially owned by such Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 6(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 6(d) applies, the determination of whether the Preferred Stock is convertible (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and of how many shares of Preferred Stock are convertible shall be in the sole discretion of such Holder, and the submission of a Notice of Conversion shall be deemed to be such Holder's determination of whether the shares of Preferred Stock may be converted (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and how many shares of the Preferred Stock are convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Corporation each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this paragraph and the Corporation shall have no obligation to verify or confirm the accuracy of such determination provided that for purposes of this Section 6(d), the Holder shall be entitled to rely on: (i) the Corporation's most recent periodic or annual report filed with the Commission, (ii) a more recent public announcement by the Corporation, or (iii) a more recent written notice by the Corporation or the Transfer Agent setting forth the number of shares of Common Stock outstanding. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d)(3) of the Exchange Act and the rules and regulations promulgated thereunder. Upon the request of a Holder, the Corporation shall within one Trading Day confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Corporation, including the Preferred Stock and the Warrants, by such Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Preferred Stock held by the applicable Holder. In the event that the issuance of shares of Common Stock to the Holder upon conversion of the Preferred Stock results in the Holder together with any Affiliates and Attribution Parties being deemed to beneficially own, in the aggregate, a number of outstanding shares of Common Stock in excess of the Beneficial Ownership Limitation, the number of shares so issued by which the Holder's together with any of its Affiliates' and Attribution Parties' aggregate beneficial ownership of shares of Common Stock exceeds the Beneficial Ownership Limitation (the "Excess Shares") shall be deemed null and void and shall be cancelled ab initio, and the Holder shall not have the power to vote or transfer the Excess Shares. A Holder, upon notice to the Corporation, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 6(d) applicable to its Preferred Stock provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Preferred Stock held by the Holder and the provisions of this Section 6(d) shall continue to apply. Any such increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Corporation and shall only apply to such Holder and no other Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 6(d) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of Preferred Stock.

e) Issuance Limitations. Notwithstanding anything herein to the contrary, if the Corporation has not obtained Shareholder Approval, then the Corporation may not issue, upon conversion of the Preferred Stock, a number of shares of Common Stock which, when aggregated with any shares of Common Stock issued on or after the Original Issue Date and prior to such Conversion Date (i) in connection with any conversion of Preferred Stock issued pursuant to the Purchase Agreement, and (ii) in connection with the exercise of any Warrants issued pursuant to the Purchase Agreement, would exceed the Issuable Maximum (as defined in the Purchase Agreement). Each Holder shall be entitled to its respective pro rata portion of the Issuable Maximum equal to the quotient obtained by dividing (x) the original Stated Value of such Holder's Preferred Stock by (y) the aggregate Stated Value of all Preferred Stock issued on the Original Issue Date to all Holders. In addition, each Holder may allocate its pro-rata portion of the Issuable Maximum among Preferred Stock and Warrants held by it in its sole discretion. Such portion shall be adjusted upward ratably in the event a Holder no longer holds any Preferred Stock or Warrants and the amount of shares issued to such Holder pursuant to such Holder's Preferred Stock and Warrants was less than such Holder's pro-rata share of the Issuable Maximum.

Section 7. Certain Adjustments. The Conversion Price shall be subject to adjustment from time-to-time as follows:

a) Stock Dividends and Stock Splits. If, at any time while any shares of the Preferred Stock remain outstanding, the Corporation: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Corporation upon conversion of, or payment of a dividend on, this Preferred Stock, the Warrant Shares, and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of the Purchase Agreement, provided that such securities have not been amended since the date of the Purchase Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of any such securities or to extend the term of such securities), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) 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 this Section 7(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Equity Sales. If, at any time subsequent to the First Closing Date, and while any shares of Preferred Stock remain outstanding, the Corporation sells or grants any option to purchase, or sells or grants any right to reprice, or otherwise disposes of or issues (or announces any sale, grant or any option to purchase or other disposition), any Common Stock or Common Stock Equivalents entitling any Person to acquire shares of Common Stock at an effective price per share that is lower than the then Conversion Price (such lower price, the "Base Conversion Price" and any such issuance, a "Dilutive Issuance") (if the holder of the Common Stock or Common Stock Equivalents so issued shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is lower than the Conversion Price, such issuance shall be deemed to have occurred for less than the Conversion Price on such date of the Dilutive Issuance), then simultaneously with the consummation (or, if earlier, the announcement) of each Dilutive Issuance the Conversion Price shall be reduced to equal the Base Conversion Price, provided that the Base Conversion Price shall not be less than the Floor Price. Notwithstanding the foregoing, no adjustment will be made under this Section 7(b) in respect of an Exempt Issuance. The Corporation shall notify the Holders in writing, no later than the Trading Day following the issuance of any Common Stock or Common Stock Equivalents subject to this Section 7(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the "Dilutive Issuance Notice"). For purposes of clarification, whether or not the Corporation provides a Dilutive Issuance Notice pursuant to this Section 7(b), upon the occurrence of any Dilutive Issuance, the Holders are entitled to receive a number of Conversion Shares based upon the Base Conversion Price on or after the date of such Dilutive Issuance, regardless of whether a Holder accurately refers to the Base Conversion Price in the Notice of Conversion. If the Company receives a Conversion Notice at a time at which the applicable Conversion Price then in effect (without regard to the Floor Price) is lower than the Floor Price then in effect (such amount, the "Applicable Conversion Price"), the Company shall, in its sole discretion, either (i) reduce the Floor Price to the Applicable Conversion Price and allow such conversion to be made at the Applicable Conversion Price, or (ii) issue a number of shares of Common Stock equal to the Conversion Amount divided by the Floor Price (without adjusting to the Applicable Conversion Price) and either (A) pay the Economic Difference in cash or (B) add the Economic Difference to the Stated Value of the Holder's shares of Preferred Stock that remain unconverted following such conversion. For purposes of this section, "Economic Difference" shall be equal to (A) the number of shares of Common Stock that would have been delivered upon conversion of the Conversion Amount at the Applicable Conversion Price, minus (B) the number of shares of Common Stock actually delivered upon conversion of the Conversion Amount at the Floor Price, multiplied by (C) the lower of (1) the daily VWAP of the Common Stock on the Conversion Date, and (2) the Applicable Conversion Price, as reflected in the following formula: ((A - B) * C).

c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 7(a) above, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder's Preferred Stock (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Pro Rata Distributions. If, at any time while any shares of the Preferred Stock remain outstanding, the Corporation declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Preferred Stock (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

e) Fundamental Transaction. If, at any time while any shares of Preferred Stock remain outstanding, (i) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another Person, (ii) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization 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, or (v) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 6(d) and Section 6(e) on the conversion of this Preferred Stock), the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Preferred Stock is convertible immediately prior to such Fundamental Transaction (without regard to any limitation in Section 6(d) and Section 6(e) on the conversion of this Preferred Stock). For purposes of any such conversion, the determination of the Conversion 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 Corporation shall apportion the Conversion 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 conversion of this Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation and the other Transaction Documents in accordance with the provisions of this Section 7(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Preferred Stock, deliver to the Holder in exchange for this Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Preferred Stock (without regard to any limitations on the conversion of this Preferred Stock) prior to such Fundamental Transaction, and with a conversion price which applies the Conversion Price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such Conversion Price being for the purpose of protecting the economic value of this Preferred Stock immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation and the other Transaction Documents referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Corporation herein.

f) Calculations. All calculations under this Section 7 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 7, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

g) Notice to the Holders.

i. Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 7, the Corporation shall promptly deliver to each Holder by email a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Conversion by Holder. If (A) the Corporation shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Corporation shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Corporation shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any shareholders of the Corporation shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Corporation is a party, any sale or transfer of all or substantially all of the assets of the Corporation, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (E) the Corporation shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, then, in each case, the Corporation shall cause to be filed at each office or agency maintained for the purpose of conversion of this Preferred Stock, and shall cause to be delivered by email to each Holder at its last email address as it shall appear upon the stock books of the Corporation, at least twenty (20) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Corporation, the Corporation shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to convert the Conversion Amount of this Preferred Stock (or any part hereof) during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 8. Reserved.

Section 9. Negative Covenants. As long as at least 2,250 shares of Preferred Stock are outstanding, unless the Required Holders shall have otherwise given prior written consent, the Corporation shall not directly or indirectly:

a) other than Permitted Indebtedness, enter into, create, incur, assume, guarantee or suffer to exist any Indebtedness;

b) other than Permitted Liens, enter into, create, incur, assume or suffer to exist any Liens of any kind, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

c) amend its charter documents, including, without limitation, its articles of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holders, including authorizing or creating any class of capital stock ranking as to dividends, redemption or distribution of assets upon a Liquidation (as defined in Section 5) senior to, or pari passu with, the Preferred Stock, provided that nothing herein shall limit the Corporation's right to file additional Certificates of Designation to designate the rights, preferences, restrictions and other matters relating to one or more additional series of Preferred Stock as contemplated by the terms of the Purchase Agreement;

d) repay, repurchase or offer to repay, repurchase or otherwise acquire more than a de minimis number of shares of its Common Stock, Common Stock Equivalents or Junior Securities, other than as to (i) the Conversion Shares or Warrant Shares as permitted or required under the Transaction Documents and (ii) repurchases of Common Stock or Common Stock Equivalents of departing officers and directors of the Corporation, provided that such repurchases shall not exceed an aggregate of $100,000 for all officers and directors for so long as the Preferred Stock is outstanding;

e) pay cash dividends or distributions on Junior Securities of the Corporation;

f) enter into any transaction with any Affiliate of the Corporation which would be required to be disclosed in any public filing with the Commission (as determined by counsel to the Corporation), unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Corporation (even if less than a quorum otherwise required for Board approval);

g) sell, lease, license, assign, transfer, spin-off, split-off, convey or otherwise dispose of any assets or rights of the Company owned or hereafter acquired whether in a single transaction or a series of related transactions, other than (i) sales, leases, licenses, assignments, transfers, conveyances and other dispositions of such assets or rights by the Company in the ordinary course of business consistent with its past practice, (ii) sales of inventory and products in the ordinary course of business, and (iii) sales of unwanted or obsolete assets; or

h) enter into any agreement with respect to any of the foregoing.

Section 10. Reserved.

Section 11. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion, shall be in writing and delivered personally, by e-mail attachment, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at the address set forth above Attention: Chief Financial Officer, e-mail address CFO@expion360.com, or such other e-mail address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 11. Any and all notices or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by e-mail attachment, or sent by a nationally recognized overnight courier service addressed to each Holder at the e-mail address or address of such Holder appearing on the books of the Corporation, or if no such e-mail address or address appears on the books of the Corporation, at the principal place of business of such Holder, as set forth in the Purchase Agreement. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via e-mail attachment at the e-mail address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via e-mail attachment at the e-mail address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay liquidated damages and accrued dividends, as applicable, on the shares of Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) Lost or Mutilated Preferred Stock Certificate. If a Holder's Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Nevada, without regard to the principles of conflict of laws thereof. All legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by any of the Transaction Documents (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "New York Courts"). The Corporation and each Holder hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such New York Courts, or such New York Courts are improper or inconvenient venue for such proceeding. The Corporation and each Holder hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. The Corporation and each Holder hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If the Corporation or any Holder shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing. Except as otherwise provided herein, any of the powers, designations, preferences, rights and other terms of the Preferred Stock may be waived on behalf of all holders of Preferred Stock by the affirmative vote or written consent of the Requisite Holders.

f) Severability. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

i) Status of Converted or Redeemed Preferred Stock. Shares of Preferred Stock may only be issued pursuant to the Purchase Agreement. If any shares of Preferred Stock shall be converted, redeemed or reacquired by the Corporation, such shares shall resume the status of authorized but unissued shares of preferred stock and shall no longer be designated as Series A-1 8% Preferred Stock.

j) Successors and Assigns. Subject to compliance with any applicable securities laws and Section 4.1 of the Purchase Agreement, the Preferred Stock and all rights arising therefrom or relating thereto (including, without limitation, any registration rights) are transferable, in whole or in part, by the Holder in the manner and to the Persons as permitted under Section 5.7 of the Purchase Agreement.

* * * * *

RESOLVED, FURTHER, that the Chief Executive Officer, Chief Financial Officer, and the Secretary or any Assistant Secretary, of the Corporation be, and each of them hereby is authorized and directed to prepare and file this Certificate of Designation of Preferences, Rights and Limitations in accordance with the foregoing resolution and the provisions of Nevada law.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this [___] day of [_____] 2026.

Name:
Title:

ANNEX A

NOTICE OF CONVERSION

[***]

Filed in the Office of	Business Number
FVAguilar	E18732192021-0
	Filing Number 20265983025
Secretary of State State Of Nevada	Filed On 8/19/2026 9:39:00 AM
	Number of Pages 2

FRANCISCO V. AGUILAR
Secretary of State
401 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov

Profit Corporation:

Certificate of Amendment (PURSUANT TO NRS 78.380 & 78.385/78.390)
Certificate to Accompany Restated Articles or Amended and Restated Articles (PURSUANT TO NRS 78.403)
Officer's Statement (PURSUANT TO NRS 80.030)

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

1. Entity information:

Name of entity as on file with the Nevada Secretary of State:

Expion360 Inc.

Entity or Nevada Business Identification Number (NVID): NV20212271723

2. Restated or Amended and Restated Articles: (Select one)

(If amending and restating only, complete section 1,2 3, 5 and 6)

☐ Certificate to Accompany Restated Articles or Amended and Restated Articles

☐ Restated Articles - No amendments; articles are restated only and are signed by an officer of the corporation who has been authorized to execute the certificate by resolution of the board of directors adopted on: _____
The certificate correctly sets forth the text of the articles or certificate as amended to the date of the certificate.

☐ Amended and Restated Articles

* Restated or Amended and Restated Articles must be included with this filing type.

3. Type of Amendment Filing Being Completed: (Select only one box)

(If amending, complete section 1, 3, 5 and 6.)

☐ Certificate of Amendment to Articles of Incorporation (Pursuant to NRS 78.380 - Before Issuance of Stock)

The undersigned declare that they constitute at least two-thirds of the following: (Check only one box) ☐ incorporators ☐ board of directors

The undersigned affirmatively declare that to the date of this certificate, no stock of the corporation has been issued

☒ Certificate of Amendment to Articles of Incorporation (Pursuant to NRS 78.385 and 78.390 - After Issuance of Stock)

The vote by which the stockholders holding shares in the corporation entitling them to exercise at least a majority of the voting power, or such greater proportion of the voting power as may be required in the case of a vote by classes or series, or as may be required by the provisions of the articles of incorporation* have voted in favor of the amendment is: _____

Or ☒ No action by stockholders is required, name change only.

☐ Officer's Statement (foreign qualified entities only) -

Name in home state, if using a modified name in Nevada: _____

Jurisdiction of formation: _____

Changes to takes the following effect:

☐ The entity name has been amended.
☐ The purpose of the entity has been amended.
☐ The authorized shares have been amended.
☐ Other: (specify changes)

☐ Dissolution
☐ Merger
☐ Conversion

* Officer's Statement must be submitted with either a certified copy of or a certificate evidencing the filing of any document, amendatory or otherwise, relating to the original articles in the place of the corporations creation.

This form must be accompanied by appropriate fees.

FRANCISCO V. AGUILAR
Secretary of State
401 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov

Profit Corporation:
Certificate of Amendment (PURSUANT TO NRS 78.380 & 78.385/78.390)
Certificate to Accompany Restated Articles or Amended and Restated Articles (PURSUANT TO NRS 78.403)
Officer's Statement (PURSUANT TO NRS 80.030)

4. Effective Date and Time: (Optional)

Date: August 20, 2026 Time: 12:01 am PST

(must not be later than 90 days after the certificate is filed)

5. Information Being Changed: (Domestic corporations only)

Changes to takes the following effect:

- [x] The entity name has been amended.
- [ ] The registered agent has been changed. (attach Certificate of Acceptance from new registered agent)
- [ ] The purpose of the entity has been amended.
- [ ] The authorized shares have been amended.
- [ ] The directors, managers or general partners have been amended.
- [ ] IRS tax language has been added.
- [ ] Articles have been added.
- [ ] Articles have been deleted.
- [ ] Other.

The articles have been amended as follows: (provide article numbers, if available)

Article I. Name 1. The name of the corporation shall be: Expion Energy, Inc.

(attach additional page(s) if necessary)

6. Signature: (Required)

X _____ Chief Financial Officer and Secretary
Signature of Officer or Authorized Signer — Title

X _____
Signature of Officer or Authorized Signer — Title

*If any proposed amendment would alter or change any preference or any relative or other right given to any class or series of outstanding shares, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series affected by the amendment regardless to limitations or restrictions on the voting power thereof.

Please include any required or optional information in space below:
(attach additional page(s) if necessary)

This form must be accompanied by appropriate fees.

Exhibit 3.3

CERTIFICATE OF AMENDMENT
OF THE AMENDED AND RESTATED BYLAWS
OF
EXPION360 INC.

The undersigned, who is the duly elected and acting Secretary of Expion360 Inc., a Nevada corporation (the "Corporation"), does hereby certify as follows:

1. Section 1.1 of Article I of the Amended and Restated Bylaws of the Corporation was amended and restated, by unanimous consent of the Board of Directors (the "Board") of the Corporation at a duly held and authorized Board meeting on August 18, 2026, to read in its entirety as follows:

"Section 1.1 *Principal Office*. The principal office and place of business of Expion Energy, Inc. (the "Corporation") shall be at 2025 SW Deerhound Ave., Redmond, OR 97756."

2. The foregoing amendment to the Amended and Restated Bylaws of the Corporation has not been modified, amended, rescinded, or revoked and remains in full force and effect on the date hereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name on this 20th day of August, 2026.

/s/ *Shawna Bowin*
Shawna Bowin, Secretary

Exhibit 4.1

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

Original Issue Date: August 21, 2026 Principal Amount: $[_____]
Conversion Price: $1,000 per share of Preferred Stock

8% CONVERTIBLE DEBENTURE
DUE AUGUST 21, 2029

THIS 8% CONVERTIBLE DEBENTURE is one of a series of duly authorized and validly issued 8% Convertible Debentures issued by Expion Energy, Inc., a Nevada corporation (the "Company"), having its principal place of business at 2025 SW Deerhound Avenue, Redmond, Oregon, 97756, designated as its 8% Convertible Debenture due August 21, 2029 (this debenture, the "Debenture" and, collectively with the other debentures of such series, the "Debentures").

FOR VALUE RECEIVED, the Company promises to pay to [_____] or its registered assigns (the "Holder"), or shall have paid pursuant to the terms hereunder, the principal sum of $[_____] on August 21, 2029 (the "Maturity Date") or such earlier date as this Debenture is required or permitted to be repaid as provided hereunder, and to pay interest to the Holder on the aggregate unconverted and then outstanding principal amount of this Debenture in accordance with the provisions hereof. This Debenture is subject to the following additional provisions:

Section 1. Definitions. For the purposes hereof, in addition to the terms defined elsewhere in this Debenture, (a) capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and (b) the following terms shall have the following meanings:

"Alternate Consideration" shall have the meaning set forth in Section 5(c).

"Applicable Federal Rate" shall have the meaning ascribed to such term in Section 7872(f)(2) of the Internal Revenue Code of 1986, as amended.

"Bankruptcy Event" means any of the following events: (a) the Corporation or any Significant Subsidiary (as such term is defined in Rule 1-02(w) of Regulation S-X) thereof commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Corporation or any Significant Subsidiary thereof, (b) there is commenced against the Corporation or any Significant Subsidiary thereof any such case or proceeding that is not dismissed within 60 calendar days after commencement, (c) the Corporation or any Significant Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered, (d) the Corporation or any Significant Subsidiary thereof suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within 60 calendar days after such appointment, (e) the Corporation or any Significant Subsidiary thereof makes a general assignment for the benefit of creditors, or (f) the Corporation or any Significant Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

"Beneficial Ownership Limitation" shall have the meaning set forth in Section 4(c).

"Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home", "shelter-in-place", "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York are generally are open for use by customers on such day.

"Conversion Date" shall have the meaning ascribed to such term in Section 4(a).

"Conversion Price" shall have the meaning ascribed to such term in Section 4(b).

"Conversion Shares" means, collectively, the shares of Preferred Stock issuable upon conversion of this Debenture in accordance with the terms hereof.

"Debenture Register" shall have the meaning set forth in Section 2(c).

"Event of Default" shall have the meaning set forth in Section 8(a).

"Fundamental Transaction" shall have the meaning set forth in Section 5(e).

"Indebtedness" means (a) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business) evidenced by bonds, debentures, notes, loan agreements or similar instruments, (b) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business and (c) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP.

"Interest Payment Date" shall have the meaning set forth in Section 2(a).

"Late Fees" shall have the meaning set forth in Section 2(c).

"New York Courts" shall have the meaning set forth in Section 9(d).

"Original Issue Date" means the date of the first issuance of the Debentures, regardless of the number of transfers of any Debenture and regardless of the number of instruments which may be issued to evidence such Debentures.

"Permitted Indebtedness" means (a) the Indebtedness existing on the Original Issue Date and set forth on Schedule 3.1(bb) attached to the Purchase Agreement and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder, (b) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations not in connection with money borrowed, in each case provided in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business, (c) Indebtedness (i) resulting from a bank or other financial institution honoring a check, draft or similar instrument in the ordinary course of business or (ii) arising under or in connection with cash management services in the ordinary course of business, (d) Indebtedness consisting of the financing of insurance premiums payable within one (1) year, and (e) lease obligations and purchase money indebtedness incurred in connection with the acquisition of capital assets and lease obligations with respect to newly acquired or leased assets.

"Permitted Liens" means the individual and collective reference to the following: (a) Liens for taxes, assessments and other governmental charges or levies not yet due or Liens for taxes, assessments and other governmental charges or levies being contested in good faith and by appropriate proceedings for which adequate reserves (in the good faith judgment of the management of the Company) have been established in accordance with GAAP, (b) Liens imposed by law which were incurred in the ordinary course of the Company's business, such as carriers', warehousemen's and mechanics' Liens, statutory landlords' Liens, and other similar Liens arising in the ordinary course of the Company's business, and which (i) do not individually or in the aggregate materially detract from the value of such property or assets or materially impair the use thereof in the operation of the business of the Company, or (ii) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing for the foreseeable future the forfeiture or sale of the property or asset subject to such Lien, (c) pledges or deposits in the ordinary course of business in connection with (i) workers' compensation, unemployment insurance and other social security legislation, and (ii) public utility services provided to the Company, (d) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business, (e) easements, rights-of-way, restrictions and other similar encumbrances affecting real property that, in the aggregate, are not substantial in amount, and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the Company, and any zoning or similar law or right reserved to or vested in any governmental authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Company, (f) any interest or title of a lessor, sublessor, licensor or sublicensor under leases or licenses that are entered into in the ordinary course of business, (g) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business that do not (i) interfere in any material respect with the ordinary conduct of the business of the Company, or (ii) secure any Indebtedness, Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business, (h) any Lien existing on any property or asset prior to the acquisition thereof by the Company or existing on any property or asset of any Person that becomes a subsidiary of the Company after the date of the Purchase Agreement prior to the time such Person becomes a subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Company or any subsidiary and (iii) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a subsidiary, as the case may be, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof, (i) Liens incurred in connection with Permitted Indebtedness under clause (a) thereunder, and (j) Liens incurred in connection with Permitted Indebtedness under clause (e) thereunder, provided that such Liens are not secured by assets of the Company other than the assets so acquired or leased.

"Preferred Stock" means the Series A-1 8% Convertible Preferred Stock into which, subject to Shareholder Approval, this Debenture shall be converted.

"Purchase Agreement" means the Securities Purchase Agreement, dated as of August 21, 2026 among the Company and the original Holders, as amended, modified or supplemented from time to time in accordance with its terms.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Share Delivery Date" shall have the meaning set forth in Section 4(c)(ii).

"Successor Entity" shall have the meaning set forth in Section 5(c).

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, (or any successors to any of the foregoing).

Section 2. Interest.

a) Payment of Interest. The Company shall pay interest to the Holder on the aggregate unconverted and then outstanding principal amount of this Debenture at the Applicable Federal Rate as of the Original Issue Date, and increasing to 8% per annum commencing on the first anniversary of the Original Issue Date, payable quarterly on January 1, April 1, July 1 and October 1, beginning on the first such date after the Original Issue Date, on the Conversion Date, and on the Maturity Date (each such date, an "Interest Payment Date") (if any Interest Payment Date is not a Business Day, then the applicable payment shall be due on the next succeeding Business Day), in cash. Notwithstanding anything herein to the contrary, from and after the occurrence and during the continuance of any Event of Default, the rate of interest shall increase by 5% per annum relative to the rate being charged as of the date of the Event of Default or, if less, the highest amount permitted by law.

b) Interest Calculations. Interest shall be calculated on the basis of a 360-day year, consisting of twelve 30 calendar day periods, and shall accrue daily commencing on the Original Issue Date until payment in full of the outstanding principal, together with all accrued and unpaid interest, liquidated damages and other amounts which may become due hereunder, has been made. Interest hereunder will be paid to the Person in whose name this Debenture is registered on the records of the Company regarding registration and transfers of this Debenture (the "Debenture Register").

c) Late Fee. All overdue accrued and unpaid interest to be paid hereunder shall entail a late fee at an interest rate equal to the lesser of 12% per annum or the maximum rate permitted by applicable law (the "Late Fees") which shall accrue daily from the date such interest is due hereunder through and including the date of actual payment in full.

d) Prepayment. Except as otherwise set forth in this Debenture, the Company may not prepay any portion of the principal amount of this Debenture without the prior written consent of the Holder.

Section 3. Registration of Transfers and Exchanges.

a) Different Denominations. This Debenture is exchangeable for an equal aggregate principal amount of Debentures of different authorized denominations, as requested by the Holder surrendering the same. No service charge will be payable for such registration of transfer or exchange.

b) Investment Representations. This Debenture has been issued subject to certain investment representations of the original Holder set forth in the Purchase Agreement and may be transferred or exchanged only in compliance with the Purchase Agreement and applicable federal and state securities laws and regulations.

c) Reliance on Debenture Register. Prior to due presentment for transfer to the Company of this Debenture, the Company and any agent of the Company may treat the Person in whose name this Debenture is duly registered on the Debenture Register as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Debenture is overdue, and neither the Company nor any such agent shall be affected by notice to the contrary.

Section 4. Conversion.

a) Automatic Conversion. Upon the Company's receipt of Shareholder Approval and the filing of the Certificate of Designation with the Nevada Secretary of State, the full principal amount of this Debenture shall automatically be converted into shares of Preferred Stock (such date, the "Conversion Date"). The Holder shall surrender this Debenture to the Company at the address designated in the Purchase Agreement as promptly as is reasonably practicable after such conversion without delaying the Company's obligation to deliver the Preferred Stock. The Company shall pay all accrued and unpaid interest on this Debenture as of the Conversion Date to the Holder in cash.

b) Conversion Price. The conversion price shall be equal to $1,000 per share of Preferred Stock, subject to adjustment herein (the "Conversion Price").

c) Mechanics of Conversion.

i. Conversion Shares Issuable Upon Conversion of Principal Amount. The number of Preferred Shares issuable upon a conversion hereunder shall be determined by the quotient obtained by dividing (x) the outstanding principal amount of this Debenture to be converted by (y) the Conversion Price.

ii. Delivery of Conversion Shares Upon Conversion. Not later than two (2) Trading Days after the Conversion Date (the "Share Delivery Date"), the Company shall deliver, or cause to be delivered, to the Holder the Conversion Shares.

iii. Reserved.

iv. Obligation Absolute. The Company's obligations to issue and deliver the Conversion Shares upon conversion of this Debenture 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 such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Company of any such action the Company may have against the Holder. The Company may not refuse conversion of this Debenture based on any claim that the Holder or anyone associated or affiliated with the Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and or enjoining conversion of all or part of this Debenture shall have been sought and obtained. In the absence of such injunction, the Company shall issue Conversion Shares and, if applicable, cash, upon a properly noticed conversion. Nothing herein shall limit a Holder's right to pursue actual damages or declare an Event of Default for the Company's failure to deliver Conversion Shares within the period specified herein and the Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit the Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

v. Reserved.

vi. Reservation of Shares Issuable Upon Conversion. The Company covenants that it will reserve and keep available out of its duly authorized and unissued shares of Preferred Stock, for the sole purpose of issuance upon conversion of this Debenture, each as herein provided, free from preemptive rights or any other actual contingent purchase rights of Persons other than the Holder (and the other holders of the Debentures), the maximum number of shares of Preferred Stock then available for such purpose and, from and after the date on which the Company has a sufficient number of authorized and unissued shares of Preferred Stock available therefor, including following receipt of the Shareholder Approval (as defined in the Purchase Agreement) and the effectiveness of any related amendment to the Company's articles of incorporation, not less than such aggregate number of shares of Preferred Stock as shall be issuable (taking into account the adjustments and restrictions of Section 5) upon the conversion of the then outstanding principal amount of this Debenture. If at any time the Company does not have a sufficient number of authorized and unissued shares of Preferred Stock available to reserve the number of shares required by the preceding sentence, the Company shall use commercially reasonable efforts to obtain the Shareholder Approval and take such other corporate action as may be necessary to increase its authorized shares of Preferred Stock or otherwise make available a sufficient number of shares of Preferred Stock for such purpose, in each case subject to the terms and conditions set forth in Section 4.11 of the Purchase Agreement. The Company covenants that all shares of Preferred Stock that shall be so issuable shall, upon issue, be duly authorized, validly issued, fully paid and nonassessable.

vii. Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of this Debenture. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Company shall round the number of Conversion Shares up to the next whole share.

viii. Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Debenture shall be made without charge to the Holder hereof for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Company shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holder of this Debenture so converted and the Company shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Company the amount of such tax or shall have established to the satisfaction of the Company that such tax has been paid. The Company shall pay all Transfer Agent fees required for processing of the Conversion.

ix. Holder's Conversion Limitations. The Company shall not effect any conversion of this Debenture, and a Holder shall not have the right to convert any portion of this Debenture, to the extent that after giving effect to the Conversion, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with such Holder or any of such Holder's Affiliates (such Persons, "Attribution Parties")) would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon conversion of the Preferred Stock issuable upon conversion of this Debenture with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) conversion of the remaining, unconverted shares of Preferred Stock issued upon conversion of this Debenture beneficially owned or to be owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, any other Debentures, the Preferred Stock or the Warrants) beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 4(c), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 4(c) applies, the determination of whether this Debenture is convertible (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of what portion of the principal amount of this Debenture is convertible shall be in the sole discretion of the Holder, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 4(c), in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as stated in the following: (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company, or (C) a more recent written notice by the Company or the Company's transfer agent setting forth the number of shares of Common Stock outstanding. Upon the request of a Holder, the Company shall within one Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including the conversion of this Debenture into Preferred Stock and the exercise of the Warrants, by such Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of the shares of Preferred Stock issuable upon conversion of this Debenture. In the event that the potential issuance of shares of Common Stock to the Holder upon conversion of this Debenture into Preferred Stock results in the Holder together with any Affiliates and Attribution Parties being deemed to beneficially own, in the aggregate, a number of outstanding shares of Common Stock in excess of the Beneficial Ownership Limitation, the number of shares of Common Stock so issued or issuable by which the Holder's together with any of its Affiliates' and Attribution Parties' aggregate beneficial ownership of shares of Common Stock exceeds the Beneficial Ownership Limitation (the "Excess Shares") shall be deemed null and void and shall be cancelled ab initio, and the Holder shall not have the power to vote or to transfer the Excess Shares. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 4(c) provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Preferred Stock upon conversion of this Debenture, or the issuance of shares of Common Stock upon conversion of the Preferred Stock, held by the Holder and the Beneficial Ownership Limitation provisions of this Section 4(c) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 4(c) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Debenture.

Section 5. Certain Adjustments. Until this Debenture has been paid or converted in full, the Conversion Price shall be subject to adjustment from time-to-time as follows:

a) Subsequent Rights Offerings. If at any time while this Debenture remains outstanding, the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to all or substantially all of the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of the shares of Preferred Stock into which this Debenture is convertible (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

b) Pro Rata Distributions. If, at any time while this Debenture remains outstanding, the Company declares or makes any dividend or other distribution of its assets (or rights to acquire its assets) to all or substantially all of the holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Debenture, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of the shares of Preferred Stock into which this Debenture is convertible (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

c) Fundamental Transaction. If, at any time while this Debenture remains outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization 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, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Debenture, the Holder shall have the right to receive, for each Conversion Shares that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 4(c) on the conversion of this Debenture), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock issuable upon conversion of the Preferreed Stock into which this Debenture is convertible immediately prior to such Fundamental Transaction (without regard to any limitation in Section 4(c) on the conversion of this Debenture). For purposes of any such conversion, the determination of the Conversion 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 Conversion 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 conversion of this Debenture following such Fundamental Transaction. The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Debenture and the other Transaction Documents (as defined in the Purchase Agreement) in accordance with the provisions of this Section 5(c) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Debenture, deliver to the Holder in exchange for this Debenture a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Debenture which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Debenture (without regard to any limitations on the conversion of this Debenture) prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Debenture immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Debenture and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Debenture and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

d) Reserved.

e) Notice to the Holder.

i. Adjustment to Conversion Price. Whenever the Conversion Price is adjusted pursuant to any provision of this Section 5, the Company shall promptly deliver to each Holder a notice setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Conversion by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be filed at each office or agency maintained for the purpose of conversion of this Debenture, and shall cause to be delivered to the Holder at its last address as it shall appear upon the Debenture Register, at least twenty (20) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice.

Section 6. Reserved.

Section 7. Negative Covenants. As long as at least $2,250,000 in aggregate principal amount of the Debentures remain outstanding, unless the Required Holders shall have otherwise given prior written consent, the Company shall not directly or indirectly:

a) other than Permitted Indebtedness, enter into, create, incur, assume, guarantee or suffer to exist any, Indebtedness;

b) other than Permitted Liens, enter into, create, incur, assume or suffer to exist any Liens of any kind, on or with respect to any of its property or assets now owned or hereafter acquired or any interest therein or any income or profits therefrom;

c) amend its charter documents, including, without limitation, its articles of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holders, provided that nothing herein shall limit the Corporation's right to file additional Certificates of Designation to designate the rights, preferences, restrictions and other matters relating to one or more additional series of Preferred Stock as contemplated by the terms of the Purchase Agreement;

d) repay, repurchase or offer to repay, repurchase or otherwise acquire more than a de minimis number of shares of its Common Stock or Common Stock Equivalents other than as to (i) the Conversion Shares or Warrant Shares as permitted or required under the Transaction Documents and (ii) repurchases of Common Stock or Common Stock Equivalents of departing officers and directors of the Company, provided that such repurchases shall not exceed an aggregate of $100,000 for all officers and directors during term of this Debenture;

e) pay cash dividends or distributions on any equity securities of the Company;

f) enter into any transaction with any Affiliate of the Company which would be required to be disclosed in any public filing with the Commission (as determined by counsel to the Company), unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Company (even if less than a quorum otherwise required for Board approval), provided that this provision shall not apply to the transactions contemplated by the Purchase Agreement;

g) sell, lease, license, assign, transfer, spin-off, split-off, convey or otherwise dispose of any assets or rights of the Company owned or hereafter acquired whether in a single transaction or a series of related transactions, other than (i) sales, leases, licenses, assignments, transfers, conveyances and other dispositions of such assets or rights by the Company in the ordinary course of business consistent with its past practice, (ii) sales of inventory and products in the ordinary course of business, and (iii) sales of unwanted or obsolete assets; or

h) enter into any agreement with respect to any of the foregoing.

Section 8. Events of Default.

a) "Event of Default" means, wherever used herein, any of the following events (whatever the reason for such event and whether such event shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

i. any default in the payment of (A) the principal amount of any Debenture or (B) interest or other amounts owing to a Holder on any Debenture, as and when the same shall become due and payable (whether on the Conversion Date or the Maturity Date, or by acceleration or otherwise) which default is not cured within three (3) Trading Days, provided the failure to timely deliver the Conversion Shares shall not constitute an Event of Default;

ii. the Company shall fail to perform any other material covenant or agreement contained in the Debentures or in any Transaction Document, which failure is not cured, if possible to cure, within the earlier to occur of (A) five (5) Trading Days after receipt by the Company of written notice of such failure from the Holder (or any other Holder), and (B) ten (10) Trading Days after an executive officer of the Company has become aware of such failure;

iii. a default or event of default (subject to any notice requirement, grace period or cure period provided in the applicable agreement, document or instrument) shall occur under any of the Transaction Documents;

iv. any representation or warranty made in this Debenture, or in any other Transaction Documents, or in any certificate made or delivered to the Holder or to any other Holder hereto or thereto, shall be untrue or incorrect in any material respect as of the date made or deemed made;

v. the Company shall be subject to a Bankruptcy Event;

vi. the Company shall default on any of its obligations under any mortgage, credit agreement or other facility, indenture agreement, factoring agreement or other similar agreement under which there may be issued, or by which there may be secured or evidenced, any indebtedness for borrowed money or money due under any long term leasing or factoring arrangement that involves an obligation greater than $250,000, whether such indebtedness now exists or shall hereafter be created, and results in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise become due and payable;

vii. the Company issues or incurs Indebtedness or grants a security interest to a Person which gives such Person priority over the Holder in the event of a default or event of default thereunder, except any Permitted Indebtedness or Permitted Liens; and

viii. any final enforceable monetary judgment, writ or similar final process shall be entered or filed against the Company or its property or other assets for more than $250,000 (except to the extent fully covered by insurance pursuant to which the insurer has not denied coverage), and such judgment, writ or similar final process shall remain unvacated, unbonded or unstayed for a period of 60 calendar days.

b) Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the outstanding principal amount of this Debenture, plus accrued but unpaid interest and other amounts owing in respect thereof, shall become, at the Holder's election, immediately due and payable in cash. Commencing upon the occurrence and during the continuance of any Event of Default, the interest rate on this Debenture shall accrue at an interest rate equal to the lesser of 12% per annum or the maximum rate permitted under applicable law. Upon the payment in full of this Debenture, the Holder shall promptly surrender this Debenture to or as directed by the Company. In connection with the existence of an Event of Default described herein, the Holder need not provide, and the Company hereby waives, any presentment, demand, protest or other notice of any kind, and the Holder may immediately and without expiration of any grace period enforce any and all of its rights and remedies hereunder and all other remedies available to it under applicable law. Such acceleration may be rescinded and annulled by Holder at any time prior to payment hereunder and the Holder shall have all rights as a holder of the Debenture until such time, if any, as the Holder receives full payment pursuant to this Section 8(b). No such rescission or annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

Section 9. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder shall be in writing and delivered personally, by e-mail attachment, or sent by a nationally recognized overnight courier service, addressed to the Company, at the address set forth above, Attention: Chief Financial Officer, e-mail address [***], or such other e-mail address, or address as the Company may specify for such purposes by notice to the Holder delivered in accordance with this Section 9(a). Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by e-mail attachment, or sent by a nationally recognized overnight courier service addressed to each Holder at the e-mail address or address of the Holder appearing on the books of the Company, or if no such e-mail address or address appears on the books of the Company, at the principal place of business of such Holder, as set forth in the Purchase Agreement. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via e-mail attachment to the e-mail address set forth on the signature pages attached hereto prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via e-mail attachment to the e-mail address set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Debenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, liquidated damages and accrued interest, as applicable, on this Debenture at the time, place, and rate, and in the coin or currency, herein prescribed. This Debenture is a direct debt obligation of the Company. This Debenture ranks pari passu with all other Debentures issued pursuant to the Purchase Agreement.

c) Lost or Mutilated Debenture. If this Debenture shall be mutilated, lost, stolen or destroyed, the Company shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated Debenture, or in lieu of or in substitution for a lost, stolen or destroyed Debenture, a new Debenture for the principal amount of this Debenture so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such Debenture, and of the ownership hereof, reasonably satisfactory to the Company.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Debenture 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 conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by any of the Transaction Documents (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall only be commenced in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "New York Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such New York Courts, or such New York Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Debenture and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Debenture or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Debenture, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver and Amendment. Any waiver by the Company or the Holder of a breach of any provision of this Debenture shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Debenture. The failure of the Company or the Holder to insist upon strict adherence to any term of this Debenture on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Debenture on any other occasion. Any waiver by the Company or the Holder must be in writing. Any amendment of this Debenture must be pursuant to a written agreement between the Holder and the Company. Notwithstanding the foregoing, any provision of this Debenture may be waived or amended on behalf of all holders of the Debentures by the affirmative vote or written consent of the Requisite Holders.

f) Severability. If any provision of this Debenture is invalid, illegal or unenforceable, the balance of this Debenture shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law which would prohibit or forgive the Company from paying all or any portion of the principal of or interest on this Debenture as contemplated herein, and the Company hereby expressly waives all benefits or advantage of any such law.

g) Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief. The remedies provided in this Debenture shall be cumulative and in addition to all other remedies available under this Debenture and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue damages for any failure by the Company to comply with the terms of this Debenture. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining any such breach.

h) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

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

j) Successors and Assigns. Subject to compliance with any applicable securities laws and Section 4.1 of the Purchase Agreement, this Debenture and all rights arising therefrom or relating thereto (including, without limitation, any registration rights) are transferable, in whole or in part, by the Holder in the manner and to the Persons as permitted under Section 5.7 of the Purchase Agreement.

Section 10. Disclosure. Upon receipt or delivery by the Company of any notice in accordance with the terms of this Debenture, unless the Company has in good faith determined that the matters relating to such notice do not constitute material, nonpublic information relating to the Company or its Subsidiaries, the Company shall within two (2) Business Days after such receipt or delivery publicly disclose such material, nonpublic information on a Current Report on Form 8-K or otherwise. In the event that the Company believes that a notice contains material, non-public information relating to the Company or its Subsidiaries, the Company so shall indicate to the Holder contemporaneously with delivery of such notice, and in the absence of any such indication, the Holder shall be allowed to presume that all matters relating to such notice do not constitute material, nonpublic information relating to the Company or its Subsidiaries.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Debenture to be duly executed by a duly authorized officer as of the date first above indicated.

EXPION ENERGY, INC.

By:_____
Name:
Title:

Exhibit 4.2

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

FORM OF
COMMON STOCK PURCHASE WARRANT

EXPION ENERGY, INC.

Warrant Shares: [_____] Initial Exercise Date: August 21, 2026

THIS COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, [_____] or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date hereof (the "Initial Exercise Date") and on or prior to 5:00 p.m. (New York City time) on August 21, 2031 (the "Termination Date") but not thereafter, to subscribe for and purchase from Expion Energy, Inc., a Nevada corporation (the "Company"), up to [_____] shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the "Purchase Agreement"), dated August 21, 2026, among the Company and the purchasers signatory thereto.

Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto (the "Notice of Exercise"). Within the earlier of (i) one (1) Trading Day and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise by wire transfer or cashier's check drawn on a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation as soon as reasonably practicable following the date on which the final Notice of Exercise is delivered to the Company as Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be $4.25, subject to adjustment hereunder (the "Exercise Price").

c) Cashless Exercise. If at the time of any exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the resale of the Warrant Shares by the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a "cashless exercise" in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of "regular trading hours" (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) the highest Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg L.P. ("Bloomberg") within two (2) hours of the time of the Holder's delivery of the Notice of Exercise pursuant to Section 2(a) hereof if such Notice of Exercise is delivered during "regular trading hours," or within two (2) hours after the close of "regular trading hours" on a Trading Day or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is delivered pursuant to Section 2(a) hereof after two (2) hours following the close of "regular trading hours" on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the holding period of the Warrant Shares being issued may be tacked on to the holding period of this Warrant. The Company agrees not to take any position contrary to this Section 2(c).

"Bid Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on OTCID Basic Market or the Pink Limited Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the OTCQB Venture Market ("OTCQB") or the OTCQX Best Market ("OTCQX") is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the OTCID Basic Market or the Pink Limited Market operated by the OTC Markets Group, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

Notwithstanding anything herein to the contrary, on the Termination Date, this Warrant shall be automatically exercised via cashless exercise pursuant to this Section 2(c), subject to the Beneficial Ownership Limitation and Section 2(e). To the extent such automatic exercise would otherwise result in the issuance of Excess Shares (as defined in Section 2(e)), such Excess Shares shall instead be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation.

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) the Warrant Shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144 (assuming cashless exercise of the Warrants), and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earlier of (i) one (1) Trading Day after the delivery to the Company of the Notice of Exercise and (ii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date") (provided that if the aggregate Exercise Price has not been delivered by such date, the Warrant Share Delivery Date shall be one (1) Trading Day after the aggregate Exercise Price (or notice of a "cashless exercise") is delivered). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) one (1) Trading Day and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. Notwithstanding anything herein to the contrary, upon delivery of the Notice of Exercise, the Holder shall be deemed for purposes of Regulation SHO under the Exchange Act to have become the holder of the Warrant Shares irrespective of the date of delivery of the Warrant Shares. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, 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 (A) pay in cash to the Holder the amount, if any, 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 (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) 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 (in which case such exercise shall be deemed rescinded) 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. For example, if the Holder purchases Common Stock having a total purchase price of $11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of $10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder $1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. 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 shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that, in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that, after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation set forth in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's representation to the Company that such Notice of Exercise does not violate the restrictions set forth in this paragraph, and the determination by the Holder of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination, provided that for purposes of this Section 2(e), the Holder shall be entitled to rely on (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d)(3) of the Exchange Act and the rules and regulations promulgated thereunder. Upon the written or oral request of the Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. In the event that the issuance of shares of Common Stock to the Holder upon exercise of this Warrant results or would result in the Holder together with any Affiliates and Attribution Parties being deemed to beneficially own, in the aggregate, a number of outstanding shares of Common Stock in excess of the Beneficial Ownership Limitation (as determined under Section 13(d) of the Exchange Act), the number of shares so issued by which the Holder's together with its Affiliates' and Attribution Parties' aggregate beneficial ownership of shares of Common Stock exceeds the Beneficial Ownership Limitation (the "Excess Shares") shall be deemed null and void and shall be cancelled ab initio, and the Holder shall not have the power to vote or to transfer the Excess Shares. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

f) Issuance Restrictions. Notwithstanding anything herein to the contrary, if the Company has not obtained Shareholder Approval, then the Company may not issue upon exercise of this Warrant, in whole or in part, a number of shares of Common Stock which, when aggregated with any shares of Common Stock issued (i) pursuant to the conversion of any Preferred Stock issued pursuant to the Purchase Agreement and (ii) upon prior exercise of this or any other Warrant issued pursuant to the Purchase Agreement, would exceed the Issuable Maximum (as defined in the Purchase Agreement). The Holder relative to the holders of the other Warrants issued pursuant to the Purchase Agreement shall be entitled to its pro rata portion of the Issuable Maximum equal to the quotient obtained by dividing (x) the Holder's original Subscription Amount by (y) the aggregate original Subscription Amount of all holders pursuant to the Purchase Agreement. In addition, the Holder may allocate its pro-rata portion of the Issuable Maximum among Warrants held by it in its sole discretion. Such pro rata portion shall be adjusted upward ratably in the event a Purchaser no longer holds any Warrants and the amount of shares issued to such Purchaser pursuant to its Warrants was less than such Purchaser's pro-rata share of the Issuable Maximum. For avoidance of doubt, unless and until any required Shareholder Approval is obtained and effective, warrants issued to any registered broker-dealer as a fee in connection with the Securities issued pursuant to the Purchase Agreement as described in clause (iii) above shall provide that such warrants shall not be allocated any portion of the Issuable Maximum and shall be unexercisable unless and until such Shareholder Approval is obtained and effective.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Equity Sales. If the Company or any Subsidiary thereof, as applicable, at any time while this Warrant is outstanding, shall sell, enter into an agreement to sell, or grant any option to purchase, or sell or grant any right to reprice, or otherwise dispose of or issue (or announce any offer, sale, grant or any option to purchase or other disposition) any Common Stock or Common Stock Equivalents, at an effective price per share less than the Exercise Price then in effect (such lower price, the "Base Share Price" and such issuances collectively, a "Dilutive Issuance") (it being understood and agreed that if the holder of the Common Stock or Common Stock Equivalents so issued shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is less than the Exercise Price, such issuance shall be deemed to have occurred for less than the Exercise Price on such date of the Dilutive Issuance at such effective price), then simultaneously with the consummation (or, if earlier, the announcement) of each Dilutive Issuance the Exercise Price shall be reduced to equal the Base Share Price, provided that the Base Share Price shall not be less than Floor Price. Notwithstanding the foregoing, no adjustments shall be made, paid or issued under this Section 3(b) in respect of an Exempt Issuance. The Company shall notify the Holder, in writing, no later than the Trading Day following the issuance or deemed issuance of any Common Stock or Common Stock Equivalents subject to this Section 3(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the "Dilutive Issuance Notice"). For purposes of clarification, whether or not the Company provides a Dilutive Issuance Notice pursuant to this Section 3(b), upon the occurrence of any Dilutive Issuance, the Holder is entitled to receive a number of Warrant Shares based upon the Base Share Price on or after the date of such Dilutive Issuance, regardless of whether the Holder accurately refers to the Base Share Price in the Notice of Exercise.

c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to all or substantially all of the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation or the Company's issuance of shares in excess of the Issuable Maximum, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation or the Company's issuance of shares in excess of the Issuable Maximum, as applicable).

d) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to all or substantially all of the holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation or the Company's issuance of shares in excess of the Issuable Maximum, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation or the Company's issuance of shares in excess of the Issuable Maximum, as applicable).

e) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company (or any Subsidiary), directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of greater than 50% of the outstanding Common Stock or greater than 50% of the voting power of the common equity of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization 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, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires greater than 50% of the outstanding shares of Common Stock or greater than 50% of the voting power of the common equity of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). 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. The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall be added to the term "Company" under this Warrant (so that from and after the occurrence or consummation of such Fundamental Transaction, each and every provision of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to each of the Company and the Successor Entity or Successor Entities, jointly and severally), and the Successor Entity or Successor Entities, jointly and severally with the Company, may exercise every right and power of the Company prior thereto and the Successor Entity or Successor Entities shall assume all of the obligations of the Company prior thereto under this Warrant and the other Transaction Documents with the same effect as if the Company and such Successor Entity or Successor Entities, jointly and severally, had been named as the Company herein. For the avoidance of doubt, the Holder shall be entitled to the benefits of the provisions of this Section 3(e) regardless of (i) whether the Company has sufficient authorized shares of Common Stock for the issuance of Warrant Shares and/or (ii) whether a Fundamental Transaction occurs prior to the Initial Exercise Date.

f) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

g) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (or any of its Subsidiaries) is a party, any sale or transfer of all or substantially all of its assets, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

h) Voluntary Adjustment By Company. Subject to the rules and regulations of the Trading Market, the Company may at any time during the term of this Warrant reduce the then-current Exercise Price to any amount and for any period of time deemed appropriate by unanimous consent of the independent directors serving on the Board.

Section 4. Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable securities laws and the conditions set forth in Section 4(d) hereof and to the provisions of Section 4.1 of the Purchase Agreement, this Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the original Issue Date and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. 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.

d) Transfer Restrictions. If, at the time of the surrender of this Warrant in connection with any transfer of this Warrant, the transfer of this Warrant shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Warrant, as the case may be, comply with the provisions of Section 5.7 of the Purchase Agreement.

e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a "cashless exercise" pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

d) Authorized Shares.

i. Reservation of Authorized and Unissued Shares. The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock the Issuable Maximum and, from and after the date on which the Company has sufficient authorized and unissued shares of Common Stock available therefor, including following receipt of the Shareholder Approval and effectiveness of any related amendment to the Company's articles of incorporation, a sufficient number of shares to provide for the issuance of the Warrant Shares upon exercise of the purchase rights under this Warrant. If at any time while this Warrant remains outstanding the Company does not have a sufficient number of authorized and unissued shares of Common Stock available to reserve for issuance upon exercise of this Warrant, the Company shall use commercially reasonable efforts to obtain the Shareholder Approval and take such other corporate action as may be necessary to increase its authorized shares of Common Stock or otherwise make a sufficient number of shares available for issuance upon exercise of this Warrant, in each case subject to the terms and conditions set forth in Section 4.11 of the Purchase Agreements. The Company further covenants that following the availability of a sufficient number of authorized and unissued shares of Common Stock, its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the applicable Warrant Shares upon exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant, when issued in accordance with this Warrant, will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

ii. Non-Circumvention. Except and to the extent as waived or consented to by Holders of a majority in interest of the Warrants then outstanding, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

iii. Authorization, Exemptions, and Consents. Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the provisions of the Purchase Agreement.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Purchase Agreement.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. Other than Section 2(e) above and this Section 5(l), which may not be amended, modified or waived, this Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

****

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

EXPION ENERGY, INC.

By:_____
Name:
Title:

EXHIBIT A

NOTICE OF EXERCISE

[***]

EXHIBIT B

ASSIGNMENT FORM

[***]

Exhibit 10.1

FORM OF SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this "Agreement") is dated as of [_____], between Expion Energy, Inc., a Nevada corporation (the "Company"), and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a "Purchaser" and collectively, the "Purchasers").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to Section 4(a)(2) of the Securities Act (as defined below), and Rule 506 promulgated thereunder, the Company desires to issue and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and each Purchaser agree as follows:

ARTICLE I.
DEFINITIONS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement the following terms have the meanings set forth in this Section 1.1:

"Acquiring Person" shall have the meaning ascribed to such term in Section 4.7.

"Action" shall have the meaning ascribed to such term in Section 3.1(j).

"Additional Closing" means each closing of the purchase and sale of Additional Shares pursuant to an exercise of the Additional Investment Right under Section 4.17.

"Additional Closing Date" shall have the meaning ascribed to such term in Section 4.17.

"Additional Investment Right" shall have the meaning ascribed to such term in Section 4.17.

"Additional Shares" shall have the meaning ascribed to such term in Section 4.17.

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Board of Directors" means the board of directors of the Company.

"Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to "stay at home," "shelter-in-place," "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York are generally open for use by customers on such day.

"Certificate of Designation" means the Certificate of Designation of the Series A-1 Convertible Preferred Stock to be filed following Shareholder Approval by the Company with the Secretary of State of Nevada, in the form of Exhibit A attached hereto.

"Closing" means the First Closing and each Additional Closing, as applicable.

"Closing Date" means the First Closing Date or the applicable Additional Closing Date, as the context requires.

"Commission" means the United States Securities and Exchange Commission.

"Common Stock" means the common stock of the Company, par value $0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Common Stock Equivalents" means any securities of the Company which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"Company Counsel" means Stradling Yocca Carlson & Rauth LLP.

"Conversion Price" shall have the meaning ascribed to such term in Section 1 of the Certificate of Designation.

"Conversion Shares" means the shares of Preferred Stock issuable upon conversion of the Debentures upon the Company's receipt of Shareholder Approval.

"Debentures" means the debentures, in the form of Exhibit B hereto, to be issued at the First Closing Date in the aggregate principal amount of $9,000,000.

"Disclosure Time" means, (i) if this Agreement is signed on a day that is not a Trading Day or after 9:00 a.m. (New York City time) and before midnight (New York City time) on any Trading Day, 9:01 a.m. (New York City time) on the Trading Day immediately following the date hereof, and (ii) if this Agreement is signed between midnight (New York City time) and 9:00 a.m. (New York City time) on any Trading Day, no later than 9:01 a.m. (New York City time) on the date hereof.

"Effective Date" means the earliest of the date that (a) the Registration Statement has been declared effective by the Commission, (b) all of the Underlying Shares and the Warrant Shares have been sold pursuant to Rule 144 or may be sold pursuant to Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 and without volume or manner-of-sale restrictions, (c) following the one year anniversary of the Closing Date provided that a holder of the Underlying Shares or the Warrant Shares is not an Affiliate of the Company, or (d) all of the Underlying Shares or the Warrant Shares may be sold pursuant to an exemption from registration under Section 4(a)(1) of the Securities Act without volume or manner-of-sale restrictions and Company Counsel has delivered to such holders a standing written unqualified opinion that resales may then be made by such holders of the Underlying Shares or the Warrant Shares pursuant to such exemption which opinion shall be in form and substance reasonably acceptable to such holders.

"Evaluation Date" shall have the meaning ascribed to such term in Section 3.1(s).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Exempt Issuance" means the issuance of (a) shares of Common Stock or options restricted stock units, restricted stock, stock appreciation rights or other equity or equity-based awards to employees, officers, consultants, advisors, or directors of the Company pursuant to any stock, stock option, equity incentive, employee stock purchase, inducement, employment, consulting, director compensation or other similar plan, agreement or arrangement duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose or otherwise approved in accordance with applicable Trading Market rules, (b) securities exercisable or exchangeable for, or convertible into, shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant to mergers, acquisitions, business combinations, joint ventures, license arrangements, strategic alliances, or other strategic transactions approved by a majority of the disinterested directors of the Company, provided that such securities are issued as "restricted securities" (as defined in Rule 144), and provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, (d) securities issued pursuant to that certain at-the-market sales agreement, dated December 12, 2025, entered into between the Company and Aegis Capital Corp., or any amendments to or replacements of such agreement, and (f) securities issued in connection with any credit facility, equipment lease or financing, commercial bank loan or other similar financing transaction, in each case approved by a majority of the disinterested directors of the Company.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended.

"First Closing" means the closing of the purchase and sale of the Debentures and Warrants on the First Closing Date.

"First Closing Date" means the Trading Day on which all of the Transaction Documents relating to the initial purchase and sale of the Debentures and Warrants have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchasers' obligations to pay the initial Subscription Amount and (ii) the Company's obligations to deliver the Debentures and Warrants, in each case, have been satisfied or waived.

"Floor Price" means $0.72 (subject to adjustment for reverse and forward stock splits, recapitalizations, and similar transactions following the date of the Purchase Agreement).

"GAAP" shall have the meaning ascribed to such term in Section 3.1(h).

"Indebtedness" shall have the meaning ascribed to such term in Section 3.1(bb).

"Intellectual Property Rights" shall have the meaning ascribed to such term in Section 3.1(o).

"Issuable Maximum" means the lower of (i) the maximum number of authorized and unissued shares of Common Stock which may be issued pursuant to the Company's articles of incorporation, and (ii) 19.99% of the number of shares of Common Stock outstanding on the Trading Day immediately preceding the date of this Agreement.

"Legend Removal Date" shall have the meaning ascribed to such term in Section 4.1(c).

"Liens" means a lien, charge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Material Adverse Effect" shall have the meaning assigned to such term in Section 3.1(b).

"Material Permits" shall have the meaning ascribed to such term in Section 3.1(n).

"Maximum Rate" shall have the meaning ascribed to such term in Section 5.17.

"Participation Maximum" shall have the meaning ascribed to such term in Section 4.12(a).

"Person" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"Placement Agent" means Palladium Capital Group, LLC.

"Placement Agent Agreement" means the placement agent agreement, dated on or about the date hereof, between the Company and the Placement Agent.

"Preferred Stock" means up to 100,000 shares of the Company's 8% Series A Convertible Preferred Stock issued in one or more Closings hereunder and having the rights, preferences and privileges set forth in one or more Certificates of Designation, each in substantially the form of Exhibit A hereto.

"Pre-Notice" shall have the meaning ascribed to such term in Section 4.12(b).

"Pro Rata Portion" shall have the meaning ascribed to such term in Section 4.12(e).

"Proceeding" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"Public Information Failure" shall have the meaning ascribed to such term in Section 4.3(b).

"Public Information Failure Payments" shall have the meaning ascribed to such term in Section 4.3(b).

"Purchaser Party" shall have the meaning ascribed to such term in Section 4.10.

"Registration Rights Agreement" means the Registration Rights Agreement, dated on or about the date hereof, among the Company and the Purchasers, in the form of Exhibit C attached hereto.

"Registration Statement" means a registration statement meeting the requirements set forth in the Registration Rights Agreement and covering the resale of the Underlying Shares and the Warrant Shares by each Purchaser as provided for in the Registration Rights Agreement.

"Required Approvals" shall have the meaning ascribed to such term in Section 3.1(e).

"Required Holders" means, as of any date of determination, (i) if any Debentures are then outstanding, the holders of at least 50.1% in principal amount of the Debentures then outstanding, or (ii) if any shares of Preferred Stock are then outstanding, the holders of at least 50.1% in Stated Value of the Preferred Stock then outstanding.

"Required Minimum" means, as of any date, (i) the maximum aggregate number of Underlying Shares issuable upon conversion in full of all shares of Preferred Stock at the initial Conversion Price applicable to such shares of Preferred Stock, ignoring any conversion or exercise limits set forth therein, and assuming that any previously unconverted shares of Preferred Stock are held until the third anniversary of the Closing Date and all dividends are paid in shares of Common Stock until such third anniversary, with the number of shares of Common Stock issuable in respect of such dividends calculated based on the initial Conversion Price applicable to the shares of Preferred Stock on which such dividends accrue, and (ii) the maximum aggregate number of Warrant Shares issuable upon exercise in full of the Warrants, ignoring any exercise limits set forth therein.

"Rule 144" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Rule 424" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"SEC Reports" shall have the meaning ascribed to such term in Section 3.1(h).

"Securities" means the Debentures, the Preferred Stock, the Underlying Shares, the Warrants and the Warrant Shares.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shareholder Approval" means such approval as may be required by the applicable rules and regulations of the Nasdaq Stock Market (or any successor entity) from the shareholders of the Company with respect to the transactions contemplated by the Transaction Documents, including (i) the approval of an amendment of the Company's articles of incorporation to authorize the creation of the Preferred Stock (which may or may not be incorporated within a proposal seeking shareholder approval of the authorization of undesignated (i.e., "blank check") preferred stock); and (ii) the issuance of all of the Underlying Shares and the Warrant Shares in excess of 19.99% of the number of issued and outstanding shares of Common Stock on the First Closing Date.

"Shareholder Approval Date" means the date on which the Shareholder Approval is received and deemed effective under Nevada law.

"Short Sales" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include locating and/or borrowing shares of Common Stock).

"Stated Value" shall have the meaning ascribed to such term in Section 1 of the Certificate of Designation.

"Subscription Amount" means, as to each Purchaser, the aggregate amount to be paid for the Debentures and the Warrants purchased hereunder as specified below such Purchaser's name on the signature page of this Agreement and next to the heading "Subscription Amount," in United States dollars and in immediately available funds.

"Subsequent Financing" shall have the meaning ascribed to such term in Section 4.12(a).

"Subsequent Financing Notice" shall have the meaning ascribed to such term in Section 4.12(b).

"Subsidiary" means any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, (or any successors to any of the foregoing).

"Transaction Documents" means this Agreement, the Debentures, the Certificate of Designation, the Registration Rights Agreement, the Warrants, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

"Transfer Agent" means Pacific Stock Transfer, the current transfer agent of the Company, and any successor transfer agent of the Company.

"Underlying Shares" means the shares of Common Stock issued and issuable upon conversion of the Preferred Stock, and issued and issuable in payment of dividends on the Preferred Stock in accordance with the terms of the Certificate of Designation.

"Variable Rate Transaction" shall have the meaning ascribed to such term in Section 4.13(b).

"VWAP" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if the OTCQB Venture Market ("OTCQB") or the OTCQX Best Market ("OTCQX") is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the OTCID Basic Market or the Pink Limited Market operated by the OTC Markets Group, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

"Warrants" means, collectively, the Common Stock Purchase Warrants to purchase shares of Common Stock delivered to the Purchasers on the First Closing Date in accordance with Section 2.2(a) hereof, in the form of Exhibit D attached hereto.

"Warrant Shares" means the shares of Common Stock issuable upon exercise of the Warrants.

ARTICLE II.
PURCHASE AND SALE

2.1 Closing. On the First Closing Date, upon the terms and subject to the conditions set forth herein, substantially concurrent with the execution and delivery of this Agreement by the parties hereto, the Company agrees to sell, and the Purchasers, severally and not jointly, agree to purchase (i) up to an aggregate of $9,000,000 principal amount of Debentures for an aggregate Subscription Amount of $9,000,000 as set forth on the signature pages hereto executed by the Purchasers and (ii) the Warrants. Each Purchaser shall deliver to the Company, via wire transfer to the bank account of the Company immediately available funds equal to such Purchaser's Subscription Amount and the Company shall deliver to each Purchaser its respective Debenture and accompanying Warrants, as determined pursuant to Section 2.2(a), and the Company and each Purchaser shall deliver the other items set forth in Section 2.2 deliverable at the Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Closing shall take place remotely by electronic transfer of the Closing documentation or such other location as the parties shall mutually agree.

2.2 Deliveries.

(a) On or prior to the First Closing Date, the Company shall deliver or cause to be delivered to each Purchaser or the Placement Agent, as appropriate, the following:

(i)' this Agreement duly executed by the Company;

(ii) a legal opinion of Company Counsel, in customary form and reasonably acceptable to the Purchasers;

(iii) a Debenture registered in the name of such Purchaser;

(iv) a Warrant registered in the name of such Purchaser to purchase a number of shares of Common Stock equal to 100% of the shares of Common Stock issuable upon conversion of such Purchaser's Conversion Shares, at an exercise price equal to the Conversion Price, subject to adjustment as set forth in the Warrant;

(v) the Registration Rights Agreement duly executed by the Company;

(vi) the Company shall have provided each Purchaser with the Company's wire instructions, on Company letterhead and executed by the Chief Executive Officer or Chief Financial Officer;

(vii) a letter executed by the Company and the Transfer Agent reserving the Required Minimum or such lesser amount than permitted under the Company's articles of incorporation for the benefit of the Purchasers;

(viii) an officer's certificate certifying that the representations and warranties of the Company in this Agreement are true and correct as of the Closing Date as though originally made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct as of such specific date) and that the Company has performed, satisfied and complied in all material respects with the covenants, agreements and conditions required to be performed, satisfied or complied with by the Company at or prior to the Closing Date under any Transaction Documents and no Event of Default has occurred;

(ix) an officer's certificate, in the form acceptable to the Purchasers, executed by an authorized officer of the Company and dated as of the Closing Date, as to (i) the resolutions adopted by the Board of Directors authorizing the transactions contemplated hereby in a form reasonably acceptable to the Purchasers, and (ii) the articles of incorporation and bylaws of the Company, each as in effect at the Closing;

(x) a certificate of good standing or its equivalent of the Company issued by the State of Nevada, as of a date within ten (10) days of the Closing Date;

(xi) a letter from the Transfer Agent certifying the number of shares of Common Stock outstanding on the First Closing Date immediately prior to the First Closing; and

(xii) such other documents, instruments or certificates relating to the transactions contemplated by this Agreement as a Purchaser or its counsel may reasonably request.

(b) On or prior to the First Closing Date, each Purchaser, and the Placement Agent, as applicable, shall deliver or cause to be delivered to the Company the following:

(i) this Agreement duly executed by such Purchaser;

(ii) the Registration Rights Agreement duly executed by such Purchaser; and

(iii) the Placement Agent Agreement duly executed by the Placement Agent.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with each Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality, in all respects) on the Closing Date of the representations and warranties of the Purchasers contained herein (unless as of a specific date therein in which case they shall be accurate in all material respects (or, to the extent representations or warranties are qualified by materiality, in all respects) as of such date);

(ii) all obligations, covenants and agreements of each Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by each Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchasers hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate in all material respects or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the applicable Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement;

(iv) there shall have been no Material Adverse Effect with respect to the Company;

(v) the Company shall be current with and shall have timely filed all SEC Reports required to have been filed as of the Closing Date (subject to any applicable grace periods); and

(vi) from the date hereof to the Closing Date, trading in the Common Stock shall not have been suspended by the Commission or the Company's principal Trading Market and, at any time prior to the Closing Date, trading in securities generally as reported by Bloomberg L.P. shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity of such magnitude in its effect on, or any material adverse change in, any financial market which, in each case, in the reasonable judgment of such Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

ARTICLE III.
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. Except as set forth in the Disclosure Schedules, which Disclosure Schedules shall be deemed a part hereof and shall qualify any representation made herein to the extent of the disclosure contained in the corresponding section of the Disclosure Schedules, and the SEC Reports, the Company hereby makes the following representations and warranties to each Purchaser:

(a) Subsidiaries. All of the direct and indirect subsidiaries of the Company are set forth in the SEC Reports. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. If the Company has no subsidiaries, all other references to the Subsidiaries or any of them in the Transaction Documents shall be disregarded.

(b) Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in material violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect"); provided, however, that "Material Adverse Effect" shall not include any event, occurrence, fact, condition, or change, directly or indirectly, arising out of or attributable to (i) the announcement, pendency, or completion of the transactions contemplated by the Transaction Documents, or (ii) any action required or permitted by the Transaction Documents. To the Company's knowledge, no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals, including, the Shareholder Approval. This Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, anti-dilution or similar adjustments, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.6 of this Agreement, (ii) the filings with the Commission required pursuant to the Registration Rights Agreement, (iii) the notice and/or application(s) to each applicable Trading Market for the issuance and sale of the Securities and the listing of the Underlying Shares and the Warrants for trading thereon in the time and manner required thereby, (iv) the filing of Form D with the Commission and such filings as are required to be made under applicable state securities laws, (v) the filing of the Certificate of Designation following the receipt of Shareholder Approval, and (vi) Shareholder Approval (collectively, the "Required Approvals").

(f) Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents and applicable law; provided, however, that the issuance of the Preferred Stock, the Underlying Shares and the Warrant Shares is subject to the Company's receipt of the Shareholder Approval, the effectiveness of any related amendment to the Company's articles of incorporation, the filing and effectiveness of the Certificate of Designation, the availability of a sufficient number of authorized and unissued shares of Common Stock, and compliance with applicable law and Trading Market requirements, as applicable. The Debentures will constitute valid and binding obligations of the Company. The Underlying Shares, when issued in accordance with the terms of the Transaction Documents, and, as to Underlying Shares representing conversions of the Preferred Stock, following the Company's receipt of the Shareholder Approval, the effectiveness of any related amendment to the Company's articles of incorporation, and the filing and effectiveness of the Certificate of Designation, and in each case subject to the availability of a sufficient number of authorized and unissued shares of Common Stock and compliance with applicable law and Trading Market requirements, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. The Warrant Shares, when issued in accordance with the terms of the Warrants, and subject to the Company's receipt of the Shareholder Approval to the extent required for issuances in excess of the applicable Issuable Maximum, the availability of a sufficient number of authorized and unissued shares of Common Stock, and compliance with applicable law and Trading Market requirements, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. As of the date hereof, the Company has reserved from its duly authorized capital stock the maximum number of shares of Common Stock currently available for issuance pursuant to the Transaction Documents.

(g) Capitalization. The capitalization of the Company as of the date hereof is as set forth in the SEC Reports. Except as set forth in the SEC Reports or Schedule 3.1(g), the Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock options under the Company's stock option plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. Except as set forth in the SEC Reports, no Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as a result of the purchase and sale of the Securities, and as set forth in the SEC Reports, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchasers). Except as set forth in the SEC Reports, there are no outstanding securities or instruments of the Company or any Subsidiary with any provision that adjusts the exercise, conversion, exchange or reset price of such security or instrument upon an issuance of securities by the Company or any Subsidiary. Except as set forth in the SEC Reports, there are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. Other than the Shareholder Approval, no further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. Except as set forth in the SEC Reports, there are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(h) SEC Reports; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "SEC Reports") on a timely basis including any extensions permitted by Rule 12b-25 under the Exchange Act and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Company has never been an issuer subject to Rule 144(i) under the Securities Act. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest audited financial statements included within the SEC Reports, except as set forth in the SEC Reports, (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans. The Company does not have pending before the Commission any request for confidential treatment of information. Except for the issuance of the Securities contemplated by this Agreement or as set forth in the SEC Reports, to the knowledge of the Company, no event, liability, fact, circumstance, occurrence or development has occurred or exists with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition, that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one (1) Trading Day prior to the date that this representation is made.

(j) Litigation. Except as set forth in the SEC Reports, there is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action"). Except as set forth in the SEC Reports, there is no Action that (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities or (ii) would, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor any director or officer thereof, is the subject of any pending Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. Except as set forth in the SEC Reports, there has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company, except in the ordinary course of business that would not have a Material Adverse Effect. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement. To the knowledge of the Company the Company and its Subsidiaries believe that their relationships with their employees are satisfactory in all material respects. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) Compliance. Neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to, or have valid and marketable rights to lease or otherwise use, all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens that do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP, and the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance in all material respects.

(p) Intellectual Property. The Company and the Subsidiaries have, or have rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights and similar rights necessary or required for use in connection with their respective businesses as described in the SEC Reports and which the failure to so have could have a Material Adverse Effect (collectively, the "Intellectual Property Rights"). None of, and neither the Company nor any Subsidiary has received a notice (written or otherwise) that any of, the Intellectual Property Rights has expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement, except where such expiration, termination or abandonment would not reasonably be expected to have a Material Adverse Effect. Neither the Company nor any Subsidiary has received, since the date of the latest audited financial statements included within the SEC Reports, a written notice of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as could not have or reasonably be expected to not have a Material Adverse Effect. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights that would be reasonably expected to have a Material Adverse Effect. The Company and its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all of their intellectual properties, except where failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(q) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage in amounts satisfactory to the Board and comparable to other similarly situated public companies in the industry in which the Company operates. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as necessary to continue its business without a significant increase in cost.

(r) Transactions with Affiliates and Employees. Except as set forth in the SEC Reports, none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock option agreements under any stock option plan of the Company.

(s) Sarbanes-Oxley; Internal Accounting Controls. The Company and the Subsidiaries are in compliance in all material respects with any and all applicable requirements of the Sarbanes-Oxley Act of 2002, as amended that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company and the Subsidiaries have established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and the Subsidiaries and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(t) Certain Fees. Except for the fees and expenses of the Placement Agent, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents.

(u) Private Placement. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchasers as contemplated hereby. The issuance and sale of the Securities hereunder does not contravene the rules and regulations of the Trading Market.

(v) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(w) Registration Rights. Except as set forth in the SEC Reports, other than each of the Purchasers, no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(x) Listing and Maintenance Requirements. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration, except as disclosed in the SEC Reports. Except as set forth in the SEC Reports, the Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. Except as set forth in the SEC Reports, the Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company or another established clearing corporation and the Company is current in payment of the fees to the Depository Trust Company (or such other established clearing corporation) in connection with such electronic transfer.

(y) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's articles of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(z) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information. The Company understands and confirms that the Purchasers will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosures furnished by or on behalf of the Company to the Purchasers regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure schedules to this Agreement, is in all material respects true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. To the knowledge of the Company, the press releases disseminated by the Company during the twelve (12) months preceding the date of this Agreement taken as a whole do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(aa) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of (i) the Securities Act which would require the registration of any such securities under the Securities Act, or (ii) any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(bb) Solvency. Based on the consolidated financial condition of the Company as of the Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder (i) the fair saleable value of the Company's assets exceeds the amount that will be required to be paid on or in respect of the Company's existing debts and other liabilities (including known contingent liabilities) as they mature, (ii) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (iii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. The SEC Reports set forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (a) any liabilities for borrowed money or amounts owed in excess of $100,000 (other than trade accounts payable incurred in the ordinary course of business) evidenced by bonds, debentures, notes, loan agreements or similar instruments, (b) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business and (c) the present value of any lease payments in excess of $100,000 due under leases required to be capitalized in accordance with GAAP. Neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(cc) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all material taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company or of any Subsidiary know of no basis for any such claim.

(dd) No General Solicitation. Neither the Company nor any Person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchasers and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(ee) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law or (iv) violated in any material respect any provision of FCPA.

(ff) Accountants. The Company's accounting firm is set forth in the SEC Reports. To the knowledge and belief of the Company, such accounting firm shall express its opinion with respect to the financial statements to be included in the Company's Annual Report for the fiscal year ending December 31, 2026, unless and until such time as the Company may appoint a successor registered public accounting firm as required by the Exchange Act.

(gg) Seniority. Except as otherwise disclosed in the SEC Reports, as of the Closing Date, no Indebtedness or other claim against the Company is senior to the Debentures in right of payment, whether with respect to interest or upon liquidation or dissolution, or otherwise, other than indebtedness secured by purchase money security interests (which is senior only as to underlying assets covered thereby) and capital lease obligations (which is senior only as to the property covered thereby).

(hh) No Disagreements with Accountants and Lawyers. There are no disagreements of any kind presently existing, or reasonably anticipated by the Company to arise, between the Company and the accountants and lawyers formerly or presently employed by the Company and the Company is current with respect to any fees owed to its accountants and lawyers which could affect the Company's ability to perform any of its obligations under any of the Transaction Documents.

(ii) Acknowledgment Regarding Purchasers' Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Securities. The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives. The Company further represents that, to its knowledge, each Purchaser is participating in the offering of Securities contemplated hereby separately and independently of the other Purchasers.

(jj) Acknowledgment Regarding Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere herein to the contrary notwithstanding (except for Sections 3.2(g) and 4.15 hereof), it is understood and acknowledged by the Company that: (i) none of the Purchasers has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term, (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities, (iii) any Purchaser, and counter-parties in "derivative" transactions to which any such Purchaser is a party, directly or indirectly, may presently have a "short" position in the Common Stock and (iv) each Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) one or more Purchasers may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Underlying Shares and the Warrant Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(kk) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Placement Agent in connection with the placement of the Securities.

(ll) Reserved.

(mm) Form S-3 Eligibility. The Company is eligible to register the resale of the Underlying Shares for resale by the Purchasers on Form S-3 promulgated under the Securities Act.

(nn) Stock Option Plans. Each stock option granted by the Company under the Company's stock option plan was granted (i) in accordance with the terms of the Company's stock option plan and (ii) with an exercise price at least equal to the fair market value of the Common Stock on the date such stock option would be considered granted under GAAP and applicable law. No stock option granted under the Company's stock option plan has been backdated. The Company has not knowingly granted, and there is no and has been no Company policy or practice to knowingly grant, stock options prior to, or otherwise knowingly coordinate the grant of stock options with, the release or other public announcement of material information regarding the Company or its Subsidiaries or their financial results or prospects.

(oo) Cybersecurity. (i)(x) To the knowledge of the Company, there has been no security breach or other compromise of or relating to any of the Company's or any Subsidiary's information technology and computer systems, networks, hardware, software, data (including the data of its respective customers, employees, suppliers, vendors and any third party data maintained by or on behalf of it), equipment or technology (collectively, "IT Systems and Data") during the three (3) years preceding the date hereof, and (y) the Company and the Subsidiaries have not been notified of, and has no knowledge of any event or condition that would reasonably be expected to result in, any security breach or other compromise to its IT Systems and Data; (ii) the Company and the Subsidiaries are presently in compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification, except as would not, individually or in the aggregate, have a Material Adverse Effect; (iii) the Company and the Subsidiaries have implemented and maintained commercially reasonable safeguards to maintain and protect its material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and Data; and (iv) the Company and the Subsidiaries have implemented backup and disaster recovery technology consistent with industry standards and practices.

(pp) Compliance with Data Privacy Laws. To the knowledge of the Company, (i) the Company and the Subsidiaries are, and at all times during the last three (3) years were, in compliance with all applicable state, federal and foreign data privacy and security laws and regulations, including, without limitation, the European Union General Data Protection Regulation ("GDPR") (EU 2016/679) (collectively, "Privacy Laws"); (ii) the Company and the Subsidiaries have in place, comply with, and take appropriate steps reasonably designed to ensure compliance with their policies and procedures relating to data privacy and security and the collection, storage, use, disclosure, handling and analysis of Personal Data (as defined below) (the "Policies"); (iii) the Company provides accurate notice of its applicable Policies to its customers, employees, third party vendors and representatives as required by the Privacy Laws; and (iv) applicable Policies provide accurate and sufficient notice of the Company's then-current privacy practices relating to its subject matter, and do not contain any material omissions of the Company's then-current privacy practices, as required by Privacy Laws. "Personal Data" means (i) a natural person's name, street address, telephone number, email address, photograph, social security number, bank information, or customer or account number; (ii) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, as amended; (iii) "personal data" as defined by GDPR; and (iv) any other piece of information that allows the identification of such natural person, or his or her family, or permits the collection or analysis of any identifiable data related to an identified person's health or sexual orientation. (i) None of such disclosures made or contained in any of the Policies have been inaccurate, misleading, or deceptive in violation of any Privacy Laws and (ii) the execution, delivery and performance of the Transaction Documents will not result in a breach of any Privacy Laws or Policies. Neither the Company nor the Subsidiaries (i) to the knowledge of the Company, has received written notice of any actual or potential liability of the Company or the Subsidiaries under, or actual or potential violation by the Company or the Subsidiaries of, any of the Privacy Laws; (ii) is currently conducting or paying for, in whole or in part, any investigation, remediation or other corrective action pursuant to any regulatory request or demand pursuant to any Privacy Law; or (iii) is a party to any order, decree, or agreement by or with any court or arbitrator or governmental or regulatory authority that imposed any obligation or liability under any Privacy Law.

(qq) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(rr) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

(ss) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "BHCA") and to regulation by the Board of Governors of the Federal Reserve System (the "Federal Reserve").

Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(tt) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance in all material respects with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "Money Laundering Laws"), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

(uu) No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506 under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale (each, an "Issuer Covered Person" and, together, "Issuer Covered Persons") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "Disqualification Event"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchasers a copy of any disclosures provided thereunder.

(vv) Other Covered Persons. Other than the Placement Agent, the Company is not aware of any person (other than any Issuer Covered Person) that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the sale of any Securities.

(ww) Notice of Disqualification Events. The Company will notify the Purchasers in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, become a Disqualification Event relating to any Issuer Covered Person.

3.2 Representations and Warranties of the Purchasers. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein, in which case they shall be accurate as of such date):

(a) Organization; Authority. Such Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and performance by such Purchaser of the transactions contemplated by the Transaction Documents have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Own Account. Such Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring the Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting such Purchaser's right to sell the Securities pursuant to the Registration Statement or otherwise in compliance with applicable federal and state securities laws). Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business.

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and as of the date hereof it is, and on each date on which it converts any shares of Preferred Stock or exercises any Warrants, it will be an "accredited investor" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9), (a)(12), or (a)(13) under the Securities Act.

(d) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(e) General Solicitation. Such Purchaser is not, to such Purchaser's knowledge, purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or, to the knowledge of such Purchaser, any other general solicitation or general advertisement.

(f) Access to Information. Such Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment.

(g) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, such Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to such Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, such Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty against, or a prohibition of, preclude any actions, with respect to the locating or borrowing of, arrangement to borrow, identification of the availability of, and/or securing of, securities of the Company shares in order for such Purchaser (or its broker or other financial representative) to effect Short Sales or similar transactions in the future.

(h) No Group; Independent Investment Decision. Such Purchaser represents and warrants, solely as to itself and not as to any other Purchaser, that such Purchaser has independently evaluated the merits and risks of its investment in the Securities and has independently made its own decision to enter into the Transaction Documents and purchase the Securities. Such Purchaser is not purchasing the Securities with any agreement, arrangement or understanding with any other Purchaser to acquire, hold, vote or dispose of any securities of the Company for the purpose of forming a "group" within the meaning of Section 13(d)(3) of the Exchange Act. For the avoidance of doubt, the foregoing shall not restrict communications with the Company, the Placement Agent, counsel or other advisors in connection with the negotiation, execution and consummation of the transactions contemplated by the Transaction Documents, nor shall the fact that the Purchasers are receiving substantially the same Transaction Documents, substantially the same economic terms or rights under the Transaction Documents, in and of itself, be deemed to constitute the Purchasers as a "group" within the meaning of Section 13(d)(3) of the Exchange Act.

The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect such Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transactions contemplated hereby. Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to locating or borrowing shares in order to effect Short Sales or similar transactions in the future.

ARTICLE IV.
OTHER AGREEMENTS OF THE PARTIES

4.1 Transfer Restrictions.

(a) The Securities may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act. As a condition of transfer, any such transferee shall agree in writing to be bound by the terms of this Agreement and the Registration Rights Agreement and shall have the rights and obligations of a Purchaser under this Agreement and the Registration Rights Agreement.

(b) The Purchasers agree to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Securities in the following form:

[NEITHER] THIS SECURITY [NOR THE SECURITIES INTO WHICH THIS SECURITY IS CONVERTIBLE] HAS BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY [AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS SECURITY] MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Securities to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Securities to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Securities may reasonably request in connection with a pledge or transfer of the Securities, including, if the Securities are subject to registration pursuant to the Registration Rights Agreement, the preparation and filing of any required prospectus supplement under Rule 424(b)(3) under the Securities Act or other applicable provision of the Securities Act to appropriately amend the list of Selling Stockholders (as defined in the Registration Rights Agreement) thereunder.

(c) Certificates evidencing the Underlying Shares and the Warrant Shares shall not contain any legend (including the legend set forth in Section 4.1(b) hereof): (i) while a registration statement (including the Registration Statement) covering the resale of such security is effective under the Securities Act, (ii) following any sale of such Underlying Shares or the Warrant Shares pursuant to Rule 144 (assuming cashless exercise of the Warrants), (iii) if such Underlying Shares or Warrant Shares are eligible for sale under Rule 144 (assuming cashless exercise of the Warrants), without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Underlying Shares and Warrant Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission). The Company shall at its expense cause its counsel to issue a legal opinion to the Transfer Agent or the Purchaser promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder, or if requested by a Purchaser, respectively. If all or any shares of Preferred Stock are converted or if all or any portion of a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Underlying Shares or Warrant Shares, or if such Underlying Shares or Warrant Shares may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144 or such compliance is not required by Rule 144 (assuming cashless exercise of the Warrants), or if the Underlying Shares or Warrant Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Underlying Shares or Warrant Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission) then such Underlying Shares or Warrant Shares shall be issued free of all legends. The Company agrees that following the Effective Date or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than the earlier of (i) one (1) Trading Day and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing Underlying Shares or Warrant Shares, as applicable, issued with a restrictive legend (such date, the "Legend Removal Date"), deliver or cause to be delivered to such Purchaser a certificate representing such shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4. Certificates for Underlying Shares or Warrant Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company System as directed by such Purchaser. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of a certificate representing Underlying Shares or Warrant Shares, as applicable, issued with a restrictive legend.

(d) In addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, (i) as partial liquidated damages and not as a penalty, for each $1,000 of Underlying Shares or Warrant Shares (based on the VWAP of the Common Stock on the date such Securities are submitted to the Transfer Agent) delivered for removal of the restrictive legend and subject to Section 4.1(c), $10 per Trading Day (increasing to $20 per Trading Day five (5) Trading Days after the Legend Removal Date) for each Trading Day after the Legend Removal Date until such certificate is delivered without a legend and (ii) if the Company fails to (a) issue and deliver (or cause to be delivered) to a Purchaser by the Legend Removal Date a certificate representing the Securities so delivered to the Company by such Purchaser that is free from all restrictive and other legends and (b) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (x) such number of Underlying Shares or Warrant Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (y) the lowest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Underlying Shares or Warrant Shares (as the case may be) and ending on the date of such delivery and payment under this clause (ii).

(e) Each Purchaser, severally and not jointly with the other Purchasers, agrees with the Company that such Purchaser will sell any Securities pursuant to either the registration requirements of the Securities Act, including any applicable prospectus delivery requirements, or an exemption therefrom, and that if Securities are sold pursuant to a Registration Statement, they will be sold in compliance with the plan of distribution set forth therein, and acknowledges that the removal of the restrictive legend from certificates representing Securities as set forth in this Section 4.1 is predicated upon the Company's reliance upon this understanding. The Company acknowledges that if a Purchaser effects a cashless exercise of the Warrants, the holding period of the Underlying Shares issued as a result shall be the Closing Date on which the Warrants were issued. The Company agrees that it shall not take a position contrary to the preceding sentence.

4.2 Acknowledgment of Dilution. The Company acknowledges that the issuance of the Securities may result in dilution of the outstanding shares of Common Stock, which dilution may be substantial under certain market conditions. The Company further acknowledges that its obligations under the Transaction Documents, including, without limitation, its obligation to issue the Underlying Shares pursuant to the Transaction Documents, are binding obligations of the Company, subject in all cases to the terms and conditions of the Transaction Documents, and, where applicable, to the Company's receipt of Shareholder Approval, the effectiveness of any related amendment to the Company's articles of incorporation, the filing and effectiveness of the Certificate of Designation, the availability of a sufficient number of authorized and unissued shares of Common Stock, the beneficial ownership limitations set forth in the Transaction Documents, any Issuable Maximum or similar limitation set forth in the Transaction Documents, the rules and regulations of the Trading Market, and applicable law.

4.3 Furnishing of Information; Public Information.

(a) Until the earlier of the time that (i) no Purchaser owns Securities or (ii) the Warrants have expired, the Company covenants to maintain the registration of the Common Stock under Section 12(b) or 12(g) of the Exchange Act and to use commercially reasonable efforts to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six (6) month anniversary of the date hereof and ending at such time that all of the Securities may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) (a "Public Information Failure") and such Public Information Failure continues for three (3) Trading Days after written notice thereof from a Purchaser, then the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Securities, an amount in cash equal to one percent (1.0%) of the aggregate Subscription Amount of such Purchaser's Securities then held by such Purchaser on the day of a Public Information Failure and on every thirtieth (30th) day (pro rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Underlying Shares and Warrant Shares pursuant to Rule 144. The payments to which a Purchaser shall be entitled pursuant to this Section 4.3(b) are referred to herein as "Public Information Failure Payments." Notwithstanding anything to the contrary herein or in any other Transaction Document, (x) the aggregate Public Information Failure Payments payable to any Purchaser under this Section 4.3(b), together with any liquidated damages, registration delay payments or similar amounts payable to such Purchaser under the Registration Rights Agreement with respect to the same or any overlapping period or underlying failure, shall not exceed five percent 5.0% of the aggregate Subscription Amount of such Purchaser's Securities affected by such failure, (y) no Public Information Failure Payments shall accrue or be payable under this Section 4.3(b) for any period for which liquidated damages, registration delay payments or similar amounts are accruing or payable to such Purchaser under the Registration Rights Agreement with respect to the same or any overlapping period or underlying failure, and (z) in no event shall the Company be required to make duplicative payments under this Agreement and the Registration Rights Agreement with respect to the same or any overlapping period or underlying failure. Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the third (3rd) Business Day after the event or failure giving rise to the Public Information Failure Payments is cured. In the event the Company fails to make Public Information Failure Payments in a timely manner, such Public Information Failure Payments shall bear interest at the rate of the lesser of one percent (1.0%) per month and the Maximum Rate prorated for partial months until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

4.4 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

4.5 Conversion and Exercise Procedures. The form of Notice of Conversion included in the Debenture, and upon conversion of the Debenture into Preferred Stock, the Certificate of Designation, sets forth the totality of the procedures required of the Purchasers in order to convert the Preferred Stock.

The form of Notice of Exercise included in the Warrant sets forth the totality of the procedures required of the Purchasers in order to exercise the Warrant. Without limiting the preceding sentences, no ink-original Notice of Conversion or Notice of Exercise, as applicable, shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion and Notice of Exercise, as applicable, form be required in order to convert the Debenture, the Preferred Stock or exercise the Warrant, as applicable. No additional legal opinion, other information or instructions shall be required of the Purchasers to convert their Debenture, Preferred Stock or exercise their Warrants. The Company shall honor conversions of the Debenture, the Preferred Stock or exercises of the Warrants and shall deliver Preferred Stock, Underlying Shares or Warrant Shares, as applicable, in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

4.6 Securities Laws Disclosure; Publicity. The Company shall (a) by the Disclosure Time, issue a press release disclosing the material terms of the transactions contemplated hereby, and (b) file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the Commission within the time required by the Exchange Act. From and after the issuance of such press release, the Company represents to the Purchasers that it shall have publicly disclosed all material, non-public information delivered to any of the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates or agents, in connection with the transactions contemplated by the Transaction Documents. For the avoidance of doubt, the foregoing shall not terminate, waive or otherwise limit any confidentiality, non-disclosure, fiduciary, insider trading, information barrier, corporate policy or similar obligation applicable to any Purchaser or any of its Affiliates, representatives or related persons under any written agreement with the Company, applicable law, the Transaction Documents, any Company policy applicable to such Person, or any other duty or obligation applicable to such Person by virtue of such Person's relationship with the Company. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. The Company shall consult the Purchasers in issuing any other press releases with respect to the transactions contemplated hereby, and neither the Company nor any Purchaser shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Purchaser, or without the prior consent of each Purchaser, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except (a) as required by federal securities law in connection with (i) any registration statement contemplated by the Registration Rights Agreement and (ii) the filing of final Transaction Documents with the Commission and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this clause (b) and reasonably cooperate with such Purchaser regarding such disclosure.

4.7 Shareholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchasers.

4.8 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.6, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide any Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto such Purchaser shall have consented in writing to the receipt of such information and agreed in writing with the Company to keep such information confidential and to comply with applicable securities laws and any applicable trading restrictions with respect thereto. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. No provision of this Agreement or any other Transaction Document shall be deemed to authorize any Purchaser or any of its Affiliates, representatives or related persons to trade in securities of the Company while in possession of material non-public information or to limit any confidentiality, non-disclosure, fiduciary, insider trading, information barrier, corporate policy or similar obligation applicable to such Person under any written agreement with the Company, applicable law, the Transaction Documents, any Company policy applicable to such Person, or any other duty or obligation applicable to such Person by virtue of such Person's relationship with the Company. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously with the delivery of such notice file such notice with the Commission pursuant to a Current Report on Form 8-K to the extent required by applicable law and Regulation FD. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

4.9 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder for general corporate purposes (which may include acquisitions, in the Company's discretion), including working capital. The Company shall not use such proceeds: (a) for the satisfaction of any portion of the Company's debt (other than payment of trade payables in the ordinary course of the Company's business and prior practices), (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) for the settlement of any outstanding litigation or (d) in violation of FCPA or OFAC regulations.

4.10 Indemnification of Purchasers. Subject to the provisions of this Section 4.10, the Company will indemnify and hold each Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "Purchaser Party") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a material breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which is finally judicially determined to constitute fraud, gross negligence or willful misconduct). If any Action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such Action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such Action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The indemnification required by this Section 4.10 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.11 Reservation and Listing of Securities.

(a) The Company shall reserve and maintain reserved from its duly authorized shares of Common Stock the maximum number of shares of Common Stock currently available for issuance pursuant to the Transaction Documents and, from and after the date on which the Company has sufficient authorized and unissued shares of Common Stock available therefor, including following receipt of the Shareholder Approval and the effectiveness of any related amendment to the Company's articles of incorporation, shall reserve and maintain reserved the Required Minimum for issuance pursuant to the Transaction Documents. If at any time the Company does not have a sufficient number of authorized and unissued shares of Common Stock available to reserve the Required Minimum, the Company shall use commercially reasonable efforts to obtain the Shareholder Approval and take such other corporate action as necessary to increase its authorized shares of Common Stock or otherwise make a sufficient number of shares of Common Stock available for issuance pursuant to the Transaction Documents.

(b) If, on any date, the number of authorized but unissued (and otherwise unreserved) shares of Common Stock is less than 100% of (i) the Required Minimum on such date, minus (ii) the number of shares of Common Stock previously issued pursuant to the Transaction Documents, then the Board of Directors shall use commercially reasonable efforts to take all corporate action reasonably necessary to seek the Shareholder Approval and, following receipt of the Shareholder Approval, to cause the Company's articles of incorporation to be amended to increase the number of authorized shares of Common Stock to an amount sufficient to permit the Company to reserve the Required Minimum at such time, minus the number of shares of Common Stock previously issued pursuant to the Transaction Documents, in each case as soon as reasonably practicable; provided, however, that if Shareholder Approval is required for any such amendment, the Company shall not be required to effect such amendment unless and until the Shareholder Approval has been obtained and deemed effective under applicable law, provided that the Company will not be required at any time to authorize a number of shares of Common Stock greater than the maximum remaining number of shares of Common Stock that could possibly be issued after such time pursuant to the Transaction Documents.

(c) The Company shall, if applicable: (i) in the time and manner required by the principal Trading Market, prepare and file with such Trading Market an additional shares listing application covering a number of shares of Common Stock at least equal to the Required Minimum on the date of such application, (ii) take all steps necessary to cause such shares of Common Stock to be approved for listing or quotation on such Trading Market as soon as possible thereafter, (iii) provide to the Purchasers evidence of such listing or quotation and (iv) maintain the listing or quotation of such Common Stock on any date at least equal to the Required Minimum on such date on such Trading Market or another Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer. In addition, the Company shall hold a special meeting of shareholders, which may also be at the annual meeting of shareholders) at the earliest practical date for the purpose of obtaining Shareholder Approval, with the recommendation of the Board of Directors that such proposal be approved, and the Company shall solicit proxies from its shareholders in connection therewith in the same manner as all other management proposals in such proxy statement, and the management-appointed proxyholders shall vote all proxies received in accordance with the instructions of the applicable shareholders and, to the extent permitted by applicable law and the applicable proxy materials, shall vote uninstructed proxies in favor of such proposal. The Company shall use its reasonable best efforts to obtain such Shareholder Approval. If the Company does not obtain Shareholder Approval at the first meeting, the Company shall call a meeting every four months thereafter to seek Shareholder Approval until the Shareholder Approval is obtained.

4.12 Participation in Future Financing.

(a) From the date hereof until the date that is the twelve (12)-month anniversary of the later of the Effective Date or the date of Shareholder Approval, upon any issuance by the Company or any of its Subsidiaries of Common Stock or Common Stock Equivalents for cash consideration, Indebtedness or a combination of units thereof (a "Subsequent Financing"), each Purchaser shall have the right to participate in up to an amount of the Subsequent Financing equal to 33% of the Subsequent Financing (the "Participation Maximum") on the same terms, conditions and price provided for in the Subsequent Financing.

(b) At least five (5) Trading Days prior to the closing of the Subsequent Financing, the Company shall deliver to each Purchaser a written notice of its intention to effect a Subsequent Financing ("Pre-Notice"), which Pre-Notice shall ask such Purchaser if it wants to review the details of such financing (such additional notice, a "Subsequent Financing Notice"). Upon the request of a Purchaser, and only upon a request by such Purchaser, for a Subsequent Financing Notice, the Company shall promptly, but no later than one (1) Trading Day after such request, deliver a Subsequent Financing Notice to such Purchaser. The Subsequent Financing Notice shall describe in reasonable detail the proposed terms of such Subsequent Financing, the amount of proceeds intended to be raised thereunder and the Person or Persons through or with whom such Subsequent Financing is proposed to be effected and shall include a term sheet or similar document relating thereto as an attachment.

(c) Any Purchaser desiring to participate in such Subsequent Financing must provide written notice to the Company by not later than 5:30 p.m. (New York City time) on the fifth (5th) Trading Day after all of the Purchasers have received the Pre-Notice that such Purchaser is willing to participate in the Subsequent Financing, the amount of such Purchaser's participation, and representing and warranting that such Purchaser has such funds ready, willing, and available for investment on the terms set forth in the Subsequent Financing Notice. If the Company receives no such notice from a Purchaser as of such fifth (5th) Trading Day, such Purchaser shall be deemed to have notified the Company that it does not elect to participate.

(d) If by 5:30 p.m. (New York City time) on the fifth (5th) Trading Day after all of the Purchasers have received the Pre-Notice, notifications by the Purchasers of their willingness to participate in the Subsequent Financing (or to cause their designees to participate) is, in the aggregate, less than the total amount of the Subsequent Financing, then the Company may effect the remaining portion of such Subsequent Financing on the terms and with the Persons set forth in the Subsequent Financing Notice.

(e) If by 5:30 p.m. (New York City time) on the fifth (5th) Trading Day after all of the Purchasers have received the Pre-Notice, the Company receives responses to a Subsequent Financing Notice from Purchasers seeking to purchase more than the aggregate amount of the Participation Maximum, each such Purchaser shall have the right to purchase its Pro Rata Portion (as defined below) of the Participation Maximum. "Pro Rata Portion" means the ratio of (x) the Subscription Amount of Securities purchased on the Closing Date by a Purchaser participating under this Section 4.12 and (y) the sum of the aggregate Subscription Amounts of Securities purchased on the Closing Date by all Purchasers participating under this Section 4.12.

(f) The Company must provide the Purchasers with a second Subsequent Financing Notice, and the Purchasers will again have the right of participation set forth above in this Section 4.12, if the Subsequent Financing subject to the initial Subsequent Financing Notice is not consummated for any reason on the terms set forth in such Subsequent Financing Notice within thirty (30) Trading Days after the date of the initial Subsequent Financing Notice.

(g) The Company and each Purchaser agree that if any Purchaser elects to participate in the Subsequent Financing, the transaction documents related to the Subsequent Financing shall not include any term or provision that, directly or indirectly, will, or is intended to, exclude one or more of the Purchasers from participating in a Subsequent Financing, including, but not limited to, provisions whereby such Purchaser shall be required to agree to any restrictions on trading as to any securities of the Company or be required to consent to any amendment to or termination of, or grant any waiver, release or the like under or in connection with, this Agreement, without the prior written consent of such Purchaser.

(h) Notwithstanding anything to the contrary in this Section 4.12 and unless otherwise agreed to by such Purchaser, the Company shall either confirm in writing to such Purchaser that the transaction with respect to the Subsequent Financing has been abandoned or shall publicly disclose its intention to issue the securities in the Subsequent Financing, in either case in such a manner such that such Purchaser will not be in possession of any material, non-public information, by the tenth (10th) Business Day following delivery of the Subsequent Financing Notice. If by such tenth (10th) Business Day, no public disclosure regarding a transaction with respect to the Subsequent Financing has been made, and no notice regarding the abandonment of such transaction has been received by such Purchaser, such transaction shall be deemed to have been abandoned and such Purchaser shall not be deemed to be in possession of any material, non-public information with respect to the Company or any of its Subsidiaries.

(i) Notwithstanding the foregoing, this Section 4.12 shall not apply in respect of an Exempt Issuance.

4.13 Subsequent Equity Sales. From the date hereof until the later of the Effective Date and Shareholder Approval, the Company shall be prohibited from effecting or entering into an agreement to effect any issuance by the Company or any of its Subsidiaries of Common Stock or Common Stock Equivalents (or a combination of units thereof) involving a Variable Rate Transaction, other than in connection with an Exempt Issuance. "Variable Rate Transaction" means a transaction in which the Company (i) issues or sells any debt or equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive, additional shares of Common Stock either (A) at a conversion price, exercise price or exchange rate or other price that is based upon, and/or varies with, the trading prices of or quotations for the shares of Common Stock at any time after the initial issuance of such debt or equity securities or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock or (ii) enters into, or effects a transaction under, any agreement, including, but not limited to, an equity line of credit or an "at-the-market offering", whereby the Company may issue securities at a future determined price. Any Purchaser shall be entitled to obtain injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages; provided, however, that no Purchaser shall be entitled to obtain injunctive relief or any other remedy with respect to any Exempt Issuance or any transaction, facility or arrangement expressly permitted by this Section 4.13. Notwithstanding the foregoing, this Section 4.13 shall not apply in respect of an Exempt Issuance, except that no Variable Rate Transaction shall be an Exempt Issuance.

4.14 Equal Treatment of Purchasers. No consideration (including any modification of any Transaction Document) shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of the Transaction Documents unless the same consideration is also offered to all of the parties to the Transaction Documents. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

4.15 Certain Transactions and Confidentiality. Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it, nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales, of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6. Each Purchaser, severally and not jointly with the other Purchasers, covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.6, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules (other than as disclosed to its legal and other representatives). Notwithstanding the foregoing, and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.6 and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company, any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates or agent, after the issuance of the initial press release as described in Section 4.6. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.16 Form D; Blue Sky Filings. The Company agrees to timely file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof, promptly upon request of any Purchaser. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Securities for, sale to the Purchasers at the Closing under applicable securities or "Blue Sky" laws of the states of the United States, and shall provide evidence of such actions promptly upon request of any Purchaser.

4.17 Additional Investment Right. Subject to the Company's receipt of Shareholder Approval, during the period ending eighteen (18) months following the Effective Date, each Purchaser, pro rata based on such Purchaser's initial Subscription Amount relative to the aggregate initial Subscription Amounts of all Purchasers, shall have the right (the "Additional Investment Right"), but not the obligation, upon notice to the Company from time to time during such period, to purchase up to its pro rata portion of an aggregate of $91,000,000 of additional shares of Preferred Stock, representing 91,000 additional shares of Preferred Stock, or such lesser amount as may be available under the Company's then-effective authorized preferred stock capitalization and applicable Trading Market rules, at a purchase price per share equal to the Stated Value (any such shares, the "Additional Shares"). The initial Conversion Price of the first $10,000,000 in the aggregate of the Additional Shares purchased by all Purchasers hereunder shall be equal to 150% of the Conversion Price of the Conversion Shares and, thereafter, the Additional Shares issuable pursuant to all subsequent exercises of the Additional Investment Right shall have an initial Conversion Price equal to the lower of (x) the Conversion Price of the Conversion Shares, and (y) 90% of the arithmetic average of the three (3) lowest VWAPs during the five (5) Trading Days prior to the date of such Purchaser's exercise of the Additional Investment Right, provided that the Conversion Price of the Additional Shares shall not be less than the Floor Price. The required deliverables for the closing of each purchase pursuant to the Additional Investment Right shall be the same deliverables set forth in Section 2.2(a)(viii), (ix), (x) and (xii) hereof, and the closing conditions for each purchase pursuant to the Additional Investment Right shall be the same as the conditions set forth in Section 2.3 hereof, as applicable to such additional purchase (the date of any such closing, an "Additional Closing Date"). The Additional Investment Right must be exercised with respect to a minimum of $1,000,000 by each participating Purchaser at each Additional Closing. No Warrants shall be issuable in connection with any exercise of the Additional Investment Right. For the avoidance of doubt, on each Additional Closing Date, the Company shall file a new certificate of designation setting forth the terms of the Preferred Stock to be issued as Additional Shares at such Closing, the terms of which shall be substantially similar to the Certificate of Designation, except that (i) it shall reflect the Conversion Price for such Preferred Stock calculated as required hereunder and (ii) the provisions set forth in the last two sentences of Section 7(b) of the Certificate of Designation relating to the conversion of shares of Preferred Stock at the "Applicable Conversion Price" shall not apply to any of the Additional Shares, and such language shall not be included in the applicable certificate of designation for any such Additional Shares.

4.18 Exercise Procedures. The form of Notice of Exercise included in the Warrants and the Notice of Conversion included in the Certificate of Designation set forth the totality of the procedures required of the Purchasers in order to convert the Preferred Stock or exercise the Warrants. No additional legal opinion, other information or instructions shall be required of the Purchasers to convert their Preferred Stock or exercise their Warrants. Without limiting the preceding sentences, no ink-original Notice of Conversion or Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion or Notice of Exercise form be required in order to convert the Preferred Stock or exercise the Warrants. The Company shall honor conversions of the Preferred Stock and exercises of the Warrants and shall deliver Underlying Shares or Warrant Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

ARTICLE V.
MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the Closing has not been consummated on or before the fifth (5th) Trading Day following the date hereof; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

5.2 Fees and Expenses. At the Closing, the Company has agreed to reimburse Five Narrow Lane LP ("FNL") the non-accountable sum of $75,000 for its legal fees and expenses. Accordingly, in lieu of the foregoing payments, the aggregate amount that FNL is to pay for its Securities at the Closing shall be reduced by $75,000 in lieu thereof. In addition, the Company shall reimburse one additional Purchaser for its reasonable and documented legal fees and expenses in an amount of up to $20,000, the aggregate amount that such additional Purchaser is to pay for its Securities at the Closing shall be reduced by such amount in lieu thereof. Except as expressly set forth in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any conversion or exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchasers.

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the time of transmission, if such notice or communication is delivered via email attachment at the e-mail address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the time of transmission, if such notice or communication is delivered via email attachment at the e-mail address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2nd) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

5.5 Amendments; Waivers. No provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and the Required Holders or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought, provided that if any amendment, modification or waiver disproportionately and adversely impacts a Purchaser (or group of Purchasers), the consent of such disproportionately impacted Purchaser (or group of Purchasers) shall also be required. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any proposed amendment or waiver that disproportionately, materially and adversely affects the rights and obligations of any Purchaser relative to the comparable rights and obligations of the other Purchasers shall require the prior written consent of such adversely affected Purchaser. Any amendment effected in accordance with this Section 5.5 shall be binding upon each Purchaser and holder of Securities and the Company.

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

5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchasers."

5.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.10.

5.9 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents 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. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company under Section 4.10, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page were an original thereof.

5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that, in the case of a rescission of a conversion of the Preferred Stock or exercise of a Warrant, the applicable Purchaser shall be required to return any shares of Common Stock subject to any such rescinded conversion or exercise, as the case may be.

5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction. The applicant for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Securities.

5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.17 Usury. To the extent it may lawfully do so, the Company hereby agrees not to insist upon or plead or in any manner whatsoever claim, and will resist any and all efforts to be compelled to take the benefit or advantage of, usury laws wherever enacted, now or at any time hereafter in force, in connection with any Action or Proceeding that may be brought by any Purchaser in order to enforce any right or remedy under any Transaction Document. Notwithstanding any provision to the contrary contained in any Transaction Document, it is expressly agreed and provided that the total liability of the Company under the Transaction Documents for payments in the nature of interest shall not exceed the maximum lawful rate authorized under applicable law (the "Maximum Rate"), and, without limiting the foregoing, in no event shall any rate of interest or default interest, or both of them, when aggregated with any other sums in the nature of interest that the Company may be obligated to pay under the Transaction Documents exceed such Maximum Rate. It is agreed that if the maximum contract rate of interest allowed by law and applicable to the Transaction Documents is increased or decreased by statute or any official governmental action subsequent to the date hereof, the new maximum contract rate of interest allowed by law will be the Maximum Rate applicable to the Transaction Documents from the effective date thereof forward, unless such application is precluded by applicable law. If under any circumstances whatsoever, interest in excess of the Maximum Rate is paid by the Company to any Purchaser with respect to indebtedness evidenced by the Transaction Documents, such excess shall be applied by such Purchaser to the unpaid principal balance of any such indebtedness or be refunded to the Company, the manner of handling such excess to be at such Purchaser's election.

5.18 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

5.19 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.20 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

5.21 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

5.22 **WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVES FOREVER TRIAL BY JURY.**

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

EXPION ENERGY, INC.

Address for Notice:

By:_____
Name:
Title:

With a copy to (which shall not constitute notice):

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

[PURCHASER SIGNATURE PAGES TO XPON SECURITIES PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: _____
Signature of Authorized Signatory of Purchaser: _____
Name of Authorized Signatory: _____
Title of Authorized Signatory: _____
Email Address of Authorized Signatory: _____

Address for Notice to Purchaser:

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Subscription Amount: $_____

Warrants: _____ Beneficial Ownership Blocker 4.99% or 9.99%

EIN Number: _____

[SIGNATURE PAGES CONTINUE]

Exhibit A

Certificate of Designation of the Series A-1 Convertible Preferred Stock

[***]

Exhibit B

8% Convertible Debenture Due August 21, 2029

[***]

Exhibit C

Registration Rights Agreement

[***]

Exhibit D

Common Stock Purchase Warrant

[***]

Exhibit 10.2

FORM OF REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this "Agreement") is made and entered into as of [_____], between Expion Energy, Inc., a Nevada corporation (the "Company"), and each of the several purchasers signatory hereto (each such purchaser, a "Purchaser" and, collectively, the "Purchasers").

This Agreement is made pursuant to the Securities Purchase Agreement, dated as of the date hereof, between the Company and each Purchaser (the "Purchase Agreement").

The Company and each Purchaser hereby agrees as follows:

1. Definitions.

Capitalized terms used and not otherwise defined herein that are defined in the Purchase Agreement shall have the meanings given such terms in the Purchase Agreement. As used in this Agreement, the following terms shall have the following meanings:

"Advice" shall have the meaning set forth in Section 6(c).

"Conversion Shares" shall have the respective meanings set forth in the Debentures and the Certificate of Designation of the Preferred Stock, as applicable.

"Effectiveness Date" means, with respect to the Initial Registration Statement required to be filed hereunder, the 45th calendar day following the date of Shareholder Approval (or, in the event of a "full review" by the Commission, the 75th calendar day following such date, as applicable) and with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the 30th calendar day following the date on which an additional Registration Statement is required to be filed hereunder (or, in the event of a "full review" by the Commission, the 60th calendar day following the date such additional Registration Statement is required to be filed hereunder); provided, however, that in the event the Company is notified by the Commission that one or more of the above Registration Statements will not be reviewed or is no longer subject to further review and comments, the Effectiveness Date as to such Registration Statement shall be the third Trading Day following the date on which the Company is so notified if such date precedes the dates otherwise required above, provided, further, if such Effectiveness Date falls on a day that is not a Trading Day, then the Effectiveness Date shall be the next succeeding Trading Day. Notwithstanding anything to the contrary set forth herein, if the U.S. federal government is "shutdown" due to a budget impasse on any day following the filing of the Initial Registration Statement or any additional Registration Statement, the "Effectiveness Date" deadlines set forth herein shall be automatically extended for each day of such "shutdown" after such filing.

"Effectiveness Period" shall have the meaning set forth in Section 2(a).

"Event" shall have the meaning set forth in Section 2(d).

"Event Date" shall have the meaning set forth in Section 2(d).

"Filing Date" means, with respect to the Initial Registration Statement required hereunder, the 20th calendar day following the date of Shareholder Approval and, with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the earliest practical date on which the Company is permitted by SEC Guidance to file such additional Registration Statement related to the Registrable Securities.

"Holder" or "Holders" means the holder or holders, as the case may be, from time to time of Registrable Securities.

"Indemnified Party" shall have the meaning set forth in Section 5(c).

"Indemnifying Party" shall have the meaning set forth in Section 5(c).

"Initial Registration Statement" means the initial Registration Statement filed pursuant to this Agreement.

"Losses" shall have the meaning set forth in Section 5(a).

"Plan of Distribution" shall have the meaning set forth in Section 2(a).

"Prospectus" means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated by the Commission pursuant to the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

"Registrable Securities" means, as of any date of determination, (a) all of the shares of Common Stock then issued and issuable upon conversion in full of the Preferred Stock (assuming on such date the shares of Preferred Stock are converted in full into Common Stock without regard to any conversion limitations therein), (b) all shares of Common Stock issued and issuable as dividends on the Preferred Stock assuming all dividend payments are made in shares of Common Stock and the Preferred Stock is held for at least three (3) years, (c) all Warrant Shares then issued and issuable upon exercise of the Warrants (assuming on such date the Warrants are exercised in full without regard to any exercise limitations therein), (d) any additional shares of Common Stock issued and issuable in connection with any anti-dilution and adjustment provisions in the Preferred Stock and Warrants (in each case, without giving effect to any limitations on conversion set forth in the Certificate of Designation or limitations on exercise set forth in the Warrants) and (e) any securities issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing; provided, however, that any such Registrable Securities shall cease to be Registrable Securities (and the Company shall not be required to maintain the effectiveness of any, or file another, Registration Statement hereunder with respect thereto) for so long as (i) a Registration Statement with respect to the sale of such Registrable Securities is declared effective by the Commission under the Securities Act and such Registrable Securities have been disposed of by the Holder in accordance with such effective Registration Statement, (ii) such Registrable Securities have been previously sold in accordance with Rule 144, or (iii) such Registrable Securities become eligible for resale without volume or manner-of-sale restrictions and without current public information pursuant to Rule 144 as set forth in a written opinion letter to such effect, addressed, delivered, and acceptable to the Transfer Agent and the affected Holders (assuming that such securities and any securities issuable upon exercise, conversion, or exchange of which, or as a dividend upon which, such securities were issued or are issuable, were at no time held by any Affiliate of the Company, and all Warrants are exercised by "cashless exercise" as provided in Section 2(c) of each of the Warrants), as reasonably determined by the Company, upon the advice of counsel to the Company.

"Registration Statement" means any registration statement required to be filed hereunder pursuant to Section 2(a) and any additional registration statements contemplated by Section 2(c) or Section 3(c), including (in each case) the Prospectus, amendments and supplements to any such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in any such registration statement.

"Rule 415" means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Rule 424" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Selling Stockholder Questionnaire" shall have the meaning set forth in Section 3(a).

"SEC Guidance" means (i) any publicly-available written or oral guidance of the Commission staff, or any comments, requirements or requests of the Commission staff and (ii) the Securities Act.

2. Shelf Registration.

(a) On or prior to each Filing Date, the Company shall prepare and file with the Commission a Registration Statement covering the resale of all of the Registrable Securities that are not then registered on an effective Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415. Each Registration Statement filed hereunder shall be on Form S-3 (except if the Company is not then eligible to register for resale the Registrable Securities on Form S-3, in which case such registration shall be on Form S-1 or another appropriate form in accordance herewith, subject to the provisions of Section 2(e)) and shall contain (unless otherwise directed by at least 85% in interest of the Holders) substantially the "Plan of Distribution" attached hereto as Annex A and substantially the "Selling Stockholder" section attached hereto as Annex B; provided, however, that no Holder shall be required to be named as an "underwriter" without such Holder's express prior written consent. Subject to the terms of this Agreement, the Company shall use its commercially reasonable efforts to cause a Registration Statement filed under this Agreement (including, without limitation, under Section 3(c)) to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event no later than the applicable Effectiveness Date, and shall use its commercially reasonable efforts to keep such Registration Statement continuously effective under the Securities Act until the date that all Registrable Securities covered by such Registration Statement (i) have been sold, thereunder or pursuant to Rule 144, or (ii) may be sold without volume or manner-of-sale restrictions pursuant to Rule 144 and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144, as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Transfer Agent and the affected Holders (the "Effectiveness Period"). The Company shall telephonically request effectiveness of a Registration Statement as of 5:00 p.m. (New York City time) on a Trading Day. The Company shall immediately notify the Holders via e-mail of the effectiveness of a Registration Statement on the same Trading Day that the Company telephonically confirms effectiveness with the Commission, which shall be the date requested for effectiveness of such Registration Statement. The Company shall, by 9:30 a.m. (New York City time) on the Trading Day after the effective date of such Registration Statement, file a final Prospectus with the Commission as required by Rule 424. Failure to so notify the Holder within one (1) Trading Day of such notification of effectiveness or failure to file a final Prospectus as foresaid shall be deemed an Event under Section 2(d).

(b) Notwithstanding the registration obligations set forth in Section 2(a), if the Commission informs the Company that all of the Registrable Securities cannot, as a result of the application of Rule 415, be registered for resale as a secondary offering on a single registration statement, the Company agrees to promptly inform each of the Holders thereof and use its commercially reasonable efforts to file amendments to the Initial Registration Statement as required by the Commission, covering the maximum number of Registrable Securities permitted to be registered by the Commission, on Form S-3 or, if not eligible for Form S-3, on Form S-1 or such other form available to register for resale the Registrable Securities as a secondary offering, subject to the provisions of Section 2(e); with respect to filing on Form S-3, Form S-1 or other appropriate form, and subject to the provisions of Section 2(d) with respect to the payment of liquidated damages; provided, however, that prior to filing such amendment, the Company shall be obligated to use diligent efforts to advocate with the Commission for the registration of all of the Registrable Securities in accordance with the SEC Guidance, including without limitation, Compliance and Disclosure Interpretation 612.09.

(c) Notwithstanding any other provision of this Agreement and subject to the payment of liquidated damages pursuant to Section 2(d), if the Commission or any SEC Guidance sets forth a limitation on the number of Registrable Securities permitted to be registered on a particular Registration Statement as a secondary offering (and notwithstanding that the Company used diligent efforts to advocate with the Commission for the registration of all or a greater portion of Registrable Securities), unless otherwise directed in writing by a Holder as to its Registrable Securities, the number of Registrable Securities to be registered on such Registration Statement will be reduced as follows:

a. First, the Company shall reduce or eliminate any securities to be included other than Registrable Securities;

b. Second, the Company shall reduce Registrable Securities represented by Warrant Shares (applied, in the case that some Warrant Shares may be registered, to the Holders on a pro rata basis based on the total number of unregistered Warrant Shares held by such Holders); and

c. Third, the Company shall reduce Registrable Securities represented by Conversion Shares (applied, in the case that some Conversion Shares may be registered, to the Holders on a pro rata basis based on the total number of unregistered Conversion Shares held by such Holders).

In the event of a cutback hereunder, the Company shall give the Holder at least three (3) Trading Days' prior written notice along with the calculations as to such Holder's allotment. In the event the Company amends the Initial Registration Statement in accordance with the foregoing, the Company will use its commercially reasonable efforts to file with the Commission, as promptly as allowed by Commission or SEC Guidance provided to the Company or to registrants of securities in general, one or more registration statements on Form S-3 or such other form available to register for resale those Registrable Securities that were not registered for resale on the Initial Registration Statement, as amended.

(d) If: (i) the Initial Registration Statement is not filed on or prior to its Filing Date (if the Company files the Initial Registration Statement without affording the Holders the opportunity to review and comment on the same as required by Section 3(a) herein or the Company subsequently withdraws the filing of the Registration Statement, the Company shall be deemed to have not satisfied this clause (i) as of the Filing Date), or (ii) the Company fails to file with the Commission a request for acceleration of effectiveness of a Registration Statement in accordance with Rule 461 promulgated by the Commission pursuant to the Securities Act, within five (5) Trading Days of the date that the Company is notified (orally or in writing, whichever is earlier) by the Commission that such Registration Statement will not be "reviewed" or will not be subject to further review, or (iii) prior to the effective date of a Registration Statement, the Company fails to file a pre-effective amendment and otherwise respond in writing to comments made by the Commission in respect of such Registration Statement within ten (10) calendar days after the receipt of comments by or notice from the Commission that such amendment is required in order for such Registration Statement to be declared effective, or (iv) a Registration Statement registering for resale all of the Registrable Securities is not declared effective by the Commission by the Effectiveness Date of the Initial Registration Statement (provided that, if the Registration Statement does not allow for the resale of Registrable Securities at prevailing market prices (i.e., only allows for fixed price sales), the Company shall have been deemed to have not satisfied this clause), or (v) after the effective date of a Registration Statement, such Registration Statement ceases for any reason to remain continuously effective as to all Registrable Securities included in such Registration Statement, or the Holders are otherwise not permitted to utilize the Prospectus therein to resell such Registrable Securities, for more than twenty (20) consecutive calendar days or more than an aggregate of thirty (30) calendar days (which need not be consecutive calendar days) during any twelve (12)-month period (any such failure or breach being referred to as an "Event", and for purposes of clauses (i) and (iv), the date on which such Event occurs, and for purpose of clause (ii) the date on which such five (5) Trading Day period is exceeded, and for purpose of clause (iii) the date which such ten (10) calendar day period is exceeded, and for purpose of clause (v) the date on which such ten (10) or fifteen (15) calendar day period, as applicable, is exceeded being referred to as "Event Date"), then, in addition to any other rights the Holders may have hereunder or under applicable law, on each such Event Date and on each monthly anniversary of each such Event Date (if the applicable Event shall not have been cured by such date) until the applicable Event is cured, the Company shall pay to each Holder an amount in cash, as partial liquidated damages and not as a penalty, equal to the product of 1.0% multiplied by the aggregate Subscription Amount paid by such Holder pursuant to the Purchase Agreement. The parties agree that the maximum aggregate liquidated damages payable to a Holder under this Agreement shall be 5.0% of the aggregate Subscription Amount paid by such Holder pursuant to the Purchase Agreement. If the Company fails to pay any partial liquidated damages pursuant to this Section in full within seven (7) days after the date payable, the Company will pay interest thereon at a rate of 12.0% per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the Holder, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. The partial liquidated damages pursuant to the terms hereof shall apply on a daily pro rata basis for any portion of a month prior to the cure of an Event.

(e) If Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall (i) register the resale of the Registrable Securities on Form S-1 or another appropriate form and (ii) undertake to register the Registrable Securities on Form S-3 as soon as such form is available, provided that the Company shall maintain the effectiveness of the Registration Statement then in effect until such time as a Registration Statement on Form S-3 covering the Registrable Securities has been declared effective by the Commission.

(f) Notwithstanding anything to the contrary contained herein, in no event shall the Company be permitted to name any Holder or affiliate of a Holder as any "underwriter" without the prior written consent of such Holder.

3. Registration Procedures.

In connection with the Company's registration obligations hereunder, the Company shall:

(a) Not less than two (2) Trading Days prior to the filing of each Registration Statement and not less than two (2) Trading Days prior to the filing of any related Prospectus or any amendment or supplement thereto (including any document that would be incorporated or deemed to be incorporated therein by reference other than Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and any similar or successor reports), the Company shall (i) furnish to each Holder copies of all such documents proposed to be filed, which documents (other than those incorporated or deemed to be incorporated by reference) will be subject to the reasonable review of such Holders, and (ii) cause its officers and directors, counsel and independent registered public accountants to respond to such inquiries as shall be reasonably necessary in the reasonable opinion of respective counsel to each Holder, to conduct a reasonable investigation within the meaning of the Securities Act. The Company shall afford each Holder a reasonable opportunity to review and provide comments on such documents prior to filing. The Company shall consider in good faith any comments timely provided by the Holders, including legal counsel of any Holder, with respect to the accuracy of information regarding such Holders or the plan of distribution. The Company shall not file a Registration Statement or any such Prospectus or any amendments or supplements thereto to which the Holders of a majority of the Registrable Securities shall reasonably object in good faith, provided that, the Company is notified of such objection in writing no later than five (5) Trading Days after the Holders have been so furnished copies of a Registration Statement or two (2) Trading Days after the Holders have been so furnished copies of any related Prospectus or amendments or supplements thereto. Each Holder agrees to furnish to the Company a completed questionnaire in the form attached to this Agreement as Annex C (a "Selling Stockholder Questionnaire") on a date that is not less than two (2) Trading Days prior to the Filing Date or by the end of the fourth (4th) Trading Day following the date on which such Holder receives draft materials in accordance with this Section.

(b) (i) Prepare and file with the Commission such amendments, including post-effective amendments, to a Registration Statement and the Prospectus used in connection therewith as may be necessary to keep a Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period and prepare and file with the Commission such additional Registration Statements in order to register for resale under the Securities Act all of the Registrable Securities, (ii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424, (iii) respond as promptly as reasonably possible to any comments received from the Commission with respect to a Registration Statement or any amendment thereto and provide as promptly as reasonably possible to the Holders true and complete copies of all correspondence from and to the Commission relating to a Registration Statement (provided that, the Company shall excise any information contained therein which would constitute material non-public information regarding the Company or any of its Subsidiaries), and (iv) comply in all material respects with the applicable provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by a Registration Statement during the applicable period in accordance (subject to the terms of this Agreement) with the intended methods of disposition by the Holders thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented.

(c) If during the Effectiveness Period, the number of Registrable Securities at any time exceeds 100% of the number of shares of Common Stock then registered in a Registration Statement, by way of example only, if any Holder exercises the Additional Investment Right to purchase additional shares of Preferred Stock, then the Company shall file as soon as reasonably practicable, but in any case prior to the applicable Filing Date, an additional Registration Statement covering the resale by the Holders of not less than the number of such Registrable Securities.

(d) Notify the Holders of Registrable Securities to be sold (which notice shall, pursuant to clauses (iii) through (v) hereof, be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made) as promptly as reasonably possible (and, in the case of (i)(A) below, not less than one (1) Trading Day prior to such filing) and (if requested by any such Person) confirm such notice in writing no later than one (1) Trading Day following the day (i)(A) when a Prospectus or any Prospectus supplement or post-effective amendment to a Registration Statement is proposed to be filed, (B) when the Commission notifies the Company whether there will be a "review" of such Registration Statement and whenever the Commission comments in writing on such Registration Statement, and (C) with respect to a Registration Statement or any post-effective amendment, when the same has become effective, (ii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to a Registration Statement or Prospectus or for additional information, (iii) of the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration Statement covering any or all of the Registrable Securities or the initiation of any Proceedings for that purpose, (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any Proceeding for such purpose, and (v) of the occurrence of any event or passage of time that makes the financial statements included in a Registration Statement ineligible for inclusion therein or any statement made in a Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to a Registration Statement, Prospectus or other documents so that, in the case of a Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that in no event shall any such notice contain any information which would constitute material, non-public information regarding the Company or any of its Subsidiaries. .

(e) Use its commercially reasonable efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order stopping or suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, at the earliest practicable moment.

(f) Furnish to each Holder, without charge, at least one (1) conformed copy of each such Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference to the extent requested by such Person, and all exhibits to the extent requested by such Person (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the Commission, provided that any such item which is available on the EDGAR system (or successor thereto) need not be furnished in physical form.

(g) Subject to the terms of this Agreement, the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto, except after the giving of any notice pursuant to Section 3(d).

(h) Prior to any resale of Registrable Securities by a Holder, use its commercially reasonable efforts to register or qualify or cooperate with the selling Holders in connection with the registration or qualification (or exemption from the registration or qualification) of such Registrable Securities for the resale by the Holder under the securities or Blue Sky laws of such jurisdictions within the United States as any Holder reasonably requests in writing, to keep each registration or qualification (or exemption therefrom) effective during the Effectiveness Period and to do any and all other acts or things reasonably necessary to enable the disposition in such jurisdictions of the Registrable Securities covered by each Registration Statement, provided that the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified, subject the Company to any material tax in any such jurisdiction where it is not then so subject or file a general consent to service of process in any such jurisdiction.

(i) If requested by a Holder, cooperate with such Holder to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be delivered to a transferee pursuant to a Registration Statement, which certificates shall be free, to the extent permitted by the Purchase Agreement, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holder may request.

(j) Upon the occurrence of any event contemplated by Section 3(d), as promptly as reasonably possible under the circumstances taking into account the Company's good faith assessment of any adverse consequences to the Company and its stockholders of the premature disclosure of such event, prepare a supplement or amendment, including a post-effective amendment, to a Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither a Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with clauses (iii) through (vi) of Section 3(d) above to suspend the use of any Prospectus until the requisite changes to such Prospectus have been made, then the Holders shall suspend use of such Prospectus. The Company will use its commercially reasonable efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company shall be entitled to exercise its right under this Section 3(j) to suspend the availability of a Registration Statement and Prospectus, subject to the payment of partial liquidated damages otherwise required pursuant to Section 2(d), for a period not to exceed 30 calendar days (which need not be consecutive days) in any 12-month period.

(k) Otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the Commission under the Securities Act and the Exchange Act, including, without limitation, Rule 172 under the Securities Act, file any final Prospectus, including any supplement or amendment thereof, with the Commission pursuant to Rule 424 under the Securities Act, promptly inform the Holders in writing if, at any time during the Effectiveness Period, the Company does not satisfy the conditions specified in Rule 172 and, as a result thereof, the Holders are required to deliver a Prospectus in connection with any disposition of Registrable Securities and take such other actions as may be reasonably necessary to facilitate the registration of the Registrable Securities hereunder.

(l) The Company shall use its commercially reasonable efforts to maintain eligibility for use of Form S-3 (or any successor form thereto) for the registration of the resale of Registrable Securities.

(m) The Company may require each selling Holder to furnish to the Company a certified statement as to the number of shares of Common Stock beneficially owned by such Holder and, if required by the Commission in accordance with SEC Guidance, the natural persons thereof that have voting and dispositive control over the shares. During any periods that the Company is unable to meet its obligations hereunder with respect to the registration of the Registrable Securities solely because any Holder fails to furnish such information within three Trading Days of the Company's request, any liquidated damages that are accruing at such time as to such Holder only shall be tolled and any Event that may otherwise occur solely because of such delay shall be suspended as to such Holder only, until such information is delivered to the Company.

4. Registration Expenses. All fees and expenses incident to the performance of or compliance with, this Agreement by the Company shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses of the Company's counsel and independent registered public accountants) (A) with respect to filings made with the Commission, (B) with respect to filings required to be made with any Trading Market on which the Common Stock is then listed for trading, and (C) in compliance with applicable state securities or Blue Sky laws reasonably agreed to by the Company in writing (including, without limitation, fees and disbursements of counsel for the Company in connection with Blue Sky qualifications or exemptions of the Registrable Securities), (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities), (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company, (v) Securities Act liability insurance, if the Company so desires such insurance to be purchased at the sole discretion of the Company, and (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. In no event shall the Company be responsible for any broker or similar commissions of any Holder or, except to the extent provided for in the Transaction Documents, any legal fees or other costs of the Holders.

5. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify and hold harmless each Holder, the officers, directors, members, partners, agents, brokers, investment advisors and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, members, stockholders, partners, agents and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "Losses"), as incurred, arising out of or relating to (1) any untrue or alleged untrue statement of a material fact contained in a Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading or (2) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement, except to the extent, but only to the extent, that (i) such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder for use therein, or to the extent that such information relates to such Holder or such Holder's information provided in the Selling Stockholder Questionnaire or proposed method of distribution of Registrable Securities and was reviewed and approved in writing by such Holder for use in a Registration Statement, such Prospectus or in any amendment or supplement thereto (it being understood that the Holder has approved Annex A hereto for this purpose) or (ii) in the case of an occurrence of an event of the type specified in Section 3(d)(iii)-(vi), the use by such Holder of an outdated, defective or otherwise unavailable Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated, defective or otherwise unavailable for use by such Holder and prior to the receipt by such Holder of the Advice contemplated in Section 6(c). The Company shall notify the Holders promptly of the institution, threat or assertion of any Proceeding arising from or in connection with the transactions contemplated by this Agreement of which the Company is aware. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such indemnified person and shall survive the transfer of any Registrable Securities by any of the Holders in accordance with Section 6(f).

(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons, to the fullest extent permitted by applicable law, from and against all Losses, as incurred, to the extent arising out of or based solely upon: any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading (i) to the extent, but only to the extent, that such untrue statement or omission is contained in any information so furnished in writing by such Holder to the Company for inclusion in such Registration Statement or such Prospectus or (ii) to the extent, but only to the extent, that such information relates to such Holder's information provided in the Selling Stockholder Questionnaire or the proposed method of distribution of Registrable Securities and was reviewed and approved in writing by such Holder for use in a Registration Statement (it being understood that the Holder has approved Annex A hereto for this purpose), such Prospectus or in any amendment or supplement thereto. In no event shall the liability of a selling Holder be greater in amount than the dollar amount of the proceeds (net of all expenses paid by such Holder in connection with any claim relating to this Section 5 and the amount of any damages such Holder has otherwise been required to pay by reason of such untrue statement or omission) received by such Holder upon the sale of the Registrable Securities included in the Registration Statement giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the "Indemnifying Party") in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all reasonable fees and expenses incurred in connection with defense thereof, provided that the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that it shall be finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) that such failure shall have materially and adversely prejudiced the Indemnifying Party.

An Indemnified Party shall have the right to employ one (1) separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses, (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding, or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and counsel to the Indemnified Party shall reasonably believe that a material conflict of interest is likely to exist if the same counsel were to represent such Indemnified Party and the Indemnifying Party (in which case, if such Indemnified Party notifies the Indemnifying Party in writing that it elects to employ separate counsel at the expense of the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense thereof and the reasonable fees and expenses of no more than one separate counsel shall be at the expense of the Indemnifying Party). The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld or delayed. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is a party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding.

Subject to the terms of this Agreement, all reasonable fees and expenses of the Indemnified Party (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this Section) shall be paid to the Indemnified Party, as incurred, within ten (10) Trading Days after written notice thereof to the Indemnifying Party, provided that the Indemnified Party shall promptly reimburse the Indemnifying Party for that portion of such fees and expenses applicable to such actions for which such Indemnified Party is finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) not to be entitled to indemnification hereunder.

(d) Contribution. If the indemnification under Section 5(a) or 5(b) is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in this Agreement, any reasonable attorneys' or other fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this Section was available to such party in accordance with its terms.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. In no event shall the contribution obligation of a Holder of Registrable Securities be greater in amount than the dollar amount of the proceeds (net of all expenses paid by such Holder in connection with any claim relating to this Section 5 and the amount of any damages such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission) received by it upon the sale of the Registrable Securities giving rise to such contribution obligation.

The indemnity and contribution agreements contained in this Section 5 are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

6. Miscellaneous.

(a) Remedies. In the event of a breach by the Company or by a Holder of any of their respective obligations under this Agreement, each Holder or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, shall be entitled to specific performance of its rights under this Agreement. Each of the Company and each Holder agrees that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall not assert or shall waive the defense that a remedy at law would be adequate.

(b) No Piggyback on Registrations. Neither the Company nor any of its security holders (other than the Holders in such capacity pursuant hereto) may include securities of the Company in any Registration Statements other than the Registrable Securities.

(c) Discontinued Disposition. By its acquisition of Registrable Securities, each Holder agrees that, upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3(d)(iii) through (vi), such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company will use its commercially reasonable efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company agrees and acknowledges that any periods during which the Holder is required to discontinue the disposition of the Registrable Securities hereunder shall be subject to the provisions of Section 2(d).

(d) Amendments and Waivers. Any amendments to or waivers with respect to this Agreement shall be made in accordance with Section 5.5 of the Purchase Agreement. Notwithstanding the foregoing, any amendment or waiver on behalf of the Company shall require the approval of an executive officer of the Company other than Joseph Hammer.

(e) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be delivered as set forth in the Purchase Agreement.

(f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and shall inure to the benefit of each Holder. The Company may not assign (except by merger) its rights or obligations hereunder without the prior written consent of all of the Holders of the then outstanding Registrable Securities. Each Holder may assign their respective rights hereunder in the manner and to the Persons as permitted under Section 5.7 of the Purchase Agreement.

(g) No Inconsistent Agreements. Neither the Company nor any of its Subsidiaries has entered, as of the date hereof, nor shall the Company or any of its Subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. Except as set forth on Schedule 6(g), neither the Company nor any of its Subsidiaries has previously entered into any agreement granting any registration rights with respect to any of its securities to any Person.

(h) Execution and Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by e-mail delivery of a ".pdf" format data file or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page were an original thereof.

(i) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be determined in accordance with the provisions of the Purchase Agreement.

(j) Cumulative Remedies. The remedies provided herein are cumulative and not exclusive of any other remedies provided by law.

(k) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

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

(m) Independent Nature of Holders' Obligations and Rights. The obligations of each Holder hereunder are several and not joint with the obligations of any other Holder hereunder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder hereunder. Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters, and the Company acknowledges that the Holders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or transactions. Each Holder shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

****

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

EXPION ENERGY, INC.

By:_____
Name:
Title:

[SIGNATURE PAGE OF HOLDERS FOLLOWS]

Name of Holder: _____

Signature of Authorized Signatory of Holder: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

PLAN OF DISTRIBUTION

[***]

Annex B

SELLING STOCKHOLDERS

[***]

EXPION ENERGY, INC.

Selling Stockholder Notice and Questionnaire

[***]

Exhibit 10.3

[Pursuant to Item 601(b)(10)(iv) of Regulation S-K, certain information marked with "[***]" has been omitted as it is (i) not material and (ii) is customarily and actually treated as private or confidential by the registrant.]

MEMBERSHIP INTEREST PURCHASE AGREEMENT

between

[***]

as the "Sellers"

and

EXPION ENERGY, INC.,

as the "Buyer"

dated as of

August 21, 2026

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MEMBERSHIP INTEREST PURCHASE AGREEMENT

This Membership Interest Purchase Agreement (this "**Agreement**"), dated as of August 21, 2026, is entered into among [***] (each a "**Seller**" and, collectively, the "**Sellers**"), and Expion Energy, Inc., a Nevada corporation ("**Buyer**"). Capitalized terms used in this Agreement have the meanings given to such terms herein, as such definitions are identified by the cross-references set forth in the **Exhibit A** attached hereto. In this Agreement, Sellers and Buyer may be individually referred to as a "Party", or collectively, "the Parties".

RECITALS

WHEREAS, Sellers own all of the issued and outstanding membership interests (the "**Membership Interests**"), in [***] (the "**Company**"); and

WHEREAS, Sellers wish to sell to Buyer, and Buyer wishes to purchase from Sellers, the Membership Interests, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I
PURCHASE AND SALE

Section 1.01 Purchase and Sale. Subject to the terms and conditions set forth herein, at the Closing (as defined in ARTICLE II), Sellers shall sell to Buyer, and Buyer shall purchase from Sellers, the Membership Interests, free and clear of any mortgage, pledge, lien, charge, security interest, claim, community property interest, option, equitable interest, restriction of any kind (including any restriction on use, voting, transfer, receipt of income, or exercise of any other ownership attribute), or other encumbrance (each, an "**Encumbrance**"), for the consideration specified in Section 1.02.

Section 1.02 Purchase Price. The aggregate purchase price for the Membership Interests shall be three million five hundred thousand U.S. dollars ($3,500,000) (the "**Purchase Price**"). Buyer shall pay the Adjusted Purchase Price (as defined below) to Sellers at the Closing, in cash and by wire transfer of immediately available funds in accordance with the wire transfer instructions set forth in Section 1.02 of the Disclosure Schedules. The term "**Disclosure Schedules**" means the disclosure schedules delivered by Sellers concurrently with the execution, closing, and delivery of this Agreement.

Section 1.03 Adjusted Purchase Price. Buyer has previously paid for the benefit of Sellers a non-refundable amount equal to one hundred seventy-five thousand dollars ($175,000) (the "**Earnest Money Deposit**"). The Parties also acknowledge that Company currently holds a certificate of deposit with a value of one hundred thousand dollars ($100,000) ("**Company CD**"). The parties agree that the cash to the paid by Buyer at Closing shall be equal to (a) the Purchase Price plus (b) the value of the Company's CD, minus (c) the amount of the Earnest Money Deposit, which total amounts to three million, four hundred twenty-five thousand U.S. dollars ($3,425,000) (the "**Adjusted Purchase Price**").

Section 1.04 Buyer Liabilities and Retained Liabilities.

(a) Subject to the terms and conditions of this Agreement, upon and subject to the Closing, Buyer hereby agrees to timely and fully pay, perform and otherwise discharge, without recourse to Sellers or their respective Affiliates, all of the Buyer Liabilities. "**Buyer Liabilities**" means all Losses, Actions and Liabilities (known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, to become due) with regard to, in respect of, arising out of or attributable to the Company and arising or accruing on or after the Closing Date; provided any such matter is not a Retained Liability as defined below.

(b) Provided that the Closing occurs, Sellers shall retain and agree to timely and fully pay, perform and otherwise discharge, without recourse to Buyer or its Affiliates, all of the Retained Liabilities. "**Retained Liabilities**" means all Losses, Actions and Liabilities (known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, due or to become due) with regard to, in respect of, arising out of or attributable to (i) any Pre-Closing Taxes, to the extent allocated to Sellers herein; (ii) (A) any violation, breach, or noncompliance with any Environmental Law or with any such Permit prior to the Closing Date; (B) the clean-up, removal, or other remediation of any Hazardous Substance or other waste or materials of any kind that are subject to regulation under any Environmental Law prior to the Closing Date, and are attributable to Sellers' ownership and/or operation of said Well or Pad; or (C) any release of a Hazardous Substance or other contamination or pollution of the environment that was attributable to Sellers' ownership and/or operation of said Well or Pad; (iii) any bodily injury claims or Actions accruing prior to the Closing that was directly attributable to Sellers' ownership and/or operation of said Well or Pad; (iv) any Liability, contractual or otherwise, of the Company accruing prior to the Closing Date; (vi) gross negligence or willful misconduct of any Seller, the Company, and Affiliates of either, or any of their contractors prior to Closing, (vii) any Action pertaining to the Company regarding matters occurring prior to the Closing Date; (viii) Sellers' acquisition and ownership of each Lease as described in Section 3.10. hereinbelow, (ix) Sellers' ownership and operation of the wellbore known as [***] wellbore, formerly drilled and operated by [***] and currently owned by Sellers and contract operated by [***] on Sellers' behalf, located in [***] (the "**Well**"), (x) the drillsite surrounding and including the Well (the "**Pad**"), which was originally constructed by [***] for the express purpose of drilling and operating said Well, and has been maintained by Sellers since Sellers' acquisition of the Well on September 1, 2024, as set forth in that certain Assignment, Bill of Sale and Conveyance [***], and (xi) all Liabilities arising or accruing prior to the Closing Date relating to the Company except as specifically included in Buyer Liabilities.

ARTICLE II
CLOSING

Section 2.01 **Closing.** The closing of the transactions contemplated by this Agreement (the "**Closing**") shall take place simultaneously with the execution of this Agreement and Buyer's full payment via wire transfer of the Adjusted Purchase Price to Sellers on the effective date of this Agreement (the "**Closing Date**") at such place or manner as the Parties may mutually agree upon. The consummation of the transactions contemplated by this Agreement shall be deemed to occur at 12:01 a.m. C.S.T. on the Closing Date.

Section 2.02 **Sellers' Closing Deliverables.** At Closing, Sellers shall deliver to Buyer the following:

(a) An assignment of the Membership Interests to Buyer in form and substance satisfactory to Buyer (the "**Assignment**"), duly executed by Sellers.

(b) For the limited liability company Sellers, an officer's certificate certifying (i) that attached thereto are true and complete copies of all resolutions of the applicable board of directors, board of managers, members and/or the shareholders, as applicable, of each Seller authorizing the execution, delivery, and performance of this Agreement and the other agreements, instruments, and documents required to be delivered in connection with this Agreement or at the Closing (collectively, the "**Transaction Documents**") to which such Seller is a party and the consummation of the transactions contemplated hereby and thereby, and that such resolutions are in full force and effect, (ii) the names, titles, and signatures of the officers or representatives of Seller, if applicable, authorized to sign this Agreement and the other Transaction Documents to which it is a party, and (iii) that attached thereto are true and complete copies of the governing documents of the Company, including any amendments or restatements thereof, and that such governing documents are in full force and effect.

(c) Resignation of each managing member and any other persons serving as a managerial official of the Company, effective as of the Closing Date.

(d) A certificate of good standing (or its equivalent) for the Company certified by the Secretary of State or similar Governmental Authority of each state where the Company is required to be qualified, registered, or authorized to do business. For purposes of this Agreement, "**Governmental Authority**" means any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any arbitrator, court, or tribunal of competent jurisdiction.

(e) Certificates pursuant to Treasury Regulations Section 1.1445-2(b) that each Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986 (as amended, the "**Code**").

(f) If and as applicable, all assignments of the Leases or consents related to the Real Property required for the transactions described in this Agreement ("**Lease Agreements**"), signed by the applicable Seller, if any, and/or the Company as and to the extent required thereby.

Section 2.03 Buyer's Deliveries. At the Closing, Buyer shall deliver the following to Sellers:

(a) The Adjusted Purchase Price.

(b) An officer's certificate certifying (i) that attached thereto are true and complete copies of all resolutions of the board of directors of Buyer authorizing the execution, delivery, and performance of this Agreement and the Transaction Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby, and that such resolutions are in full force and effect, and (ii) the names, titles, and signatures of the authorized representatives of Buyer authorized to sign this Agreement and the other Transaction Documents to which it is a party.

(c) If and as applicable, all Lease Agreements, signed by Buyer to the extent required thereby.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLERS

Sellers, on a joint and several basis, represent and warrant to Buyer that the statements contained in this ARTICLE III are true and correct as of the date hereof. For purposes of this ARTICLE III, "Sellers' knowledge," "knowledge of Sellers," and any similar phrases shall mean the actual or constructive knowledge of any manager, member, director, or officer of any limited liability company Seller and the actual knowledge of a Seller that is a natural Person, and in each case, after due inquiry.

Section 3.01 Organization and Authority of Sellers. Each Seller (if not an individual or a trust) is duly organized or incorporated and in good standing under the Laws of its state of organization. Each such Seller has the requisite power and authority, or if such Seller is a natural person, the legal capacity, to execute, deliver and carry out this Agreement, the other Transaction Documents and all other instruments, documents and agreements contemplated or required by the provisions of this Agreement and any of the other Transaction Documents to be executed, delivered and carried out by such Seller hereunder or thereunder. The execution and delivery of this Agreement, the other Transaction Documents and all other instruments, documents and agreements contemplated or required by the provisions of any of the Transaction Documents to be executed and delivered by each Seller have been duly authorized by all necessary action, as applicable, on the part of Seller.

Section 3.02 Organization, Authority, and Qualification of the Company. The Company is a limited liability company duly organized, validly existing, and in good standing under the Laws of the state of Mississippi and has full limited liability company power and authority to own, operate, or lease the properties and assets now owned, operated, or leased by it and to carry on its business as it has been and is currently conducted. Section 3.02 of the Disclosure Schedules sets forth each jurisdiction in which the Company is licensed or qualified to do business, and the Company is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary.

Section 3.03 Capitalization.

(a) Sellers are the record owner of and have good and valid title to the Membership Interests, free and clear of all Encumbrances. The Membership Interests constitute 100% of the total issued and outstanding membership interests in the Company. The Membership Interests have been duly authorized and are validly issued, fully-paid, and non-assessable. Upon consummation of all of the transactions contemplated by this Agreement including but not limited to its full payment of the Adjusted Purchase Price, Buyer shall own all of the Membership Interests, free and clear of all Encumbrances.

(b) The Membership Interests were issued in compliance with applicable Laws. The Membership Interests were not issued in violation of the certificate of formation, company agreement, or other governing documents of the Company (collectively, the "**Governing Documents**") or any other agreement, understanding, arrangement, or commitment to which any Seller or the Company is a party and are not subject to or in violation of any preemptive or similar rights of any individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity (each, a "**Person**").

(c) There are no outstanding or authorized options, warrants, convertible securities, or other rights, agreements, or commitments of any character relating to the membership interests in the Company or obligating any Seller or the Company to issue or sell any membership interests (including the Membership Interests), or any other interest, in the Company. Other than the Governing Documents, there are no voting trusts, proxies, or other agreements or understandings in effect with respect to the voting or transfer of any of the Membership Interests.

Section 3.04 No Subsidiaries. The Company does not have, or have the right to acquire, an ownership interest in any other Person.

Section 3.05 No Conflicts or Consents. The execution, delivery, and performance by Sellers of this Agreement and the other Transaction Documents to which each is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) violate or conflict with any provision of the certificate of formation, company agreement, or other governing documents of any Seller or the Company; (b) violate or conflict with any provision of any statute, law, ordinance, regulation, rule, code, treaty, or other requirement of any Governmental Authority (collectively, "**Law**") or any order, writ, judgment, injunction, decree, determination, penalty, or award entered by or with any Governmental Authority ("**Governmental Order**") applicable to any Seller or the Company; (c) require the consent, notice, or filing with or other action by any Person or require any Permit (as defined in Section 3.15(b)), license, or Governmental Order; (d) violate or conflict with, result in the acceleration of, or create in any party the right to accelerate, terminate, or modify any contract, lease, deed, mortgage, license, instrument, note, indenture, joint venture, or any other agreement, commitment, or legally binding arrangement, whether written or oral, to which any Seller or the Company is a party or by which any Seller or the Company is bound or to which any of their respective properties and assets are subject; or (e) result in the creation or imposition of any Encumbrance on any properties or assets of the Company.

Section 3.06 Financial Statements. Complete copies of the following documents (collectively, the "**Financial Statements**") have been delivered to Buyer: (a) the Company's bank ledgers from June 27, 2024 and through July 27, 2026; (b) the Company's 2025 tax return; and (c) the Company's unaudited consolidated balance sheet of the Company and its Subsidiaries, dated as of July 27, 2026 (the "**Balance Sheet**" and the date thereof, the "**Balance Sheet Date**"). The Financial Statements are based on the books and records of the Company and fairly present the financial condition of the Company as of the respective dates they were prepared and the results of the operations of the Company for the periods indicated. The Company maintains a standard system of accounting.

Section 3.07 Undisclosed Liabilities. The Company has no liabilities, obligations, or commitments of any nature whatsoever, whether asserted, known, absolute, accrued, matured, or otherwise (collectively, "**Liabilities**"), except: (a) those which are adequately reflected or reserved against in the Balance Sheet as of the Balance Sheet Date; and (b) those which have been incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date and which are not, individually or in the aggregate, material in amount.

Section 3.08 Absence of Certain Changes, Events, and Conditions. Since the Balance Sheet Date, and other than in the ordinary course of business consistent with past practice, there has not been, with respect to the Company, any change, event, condition, or development that is, or could reasonably be expected to be, individually or in the aggregate, materially adverse to the business, results of operations, condition (financial or otherwise), or assets of the Company. Specifically, and without limiting the foregoing, with respect to the Well, the Sellers represent the following:

(a) Sellers and the Company have administered and operated the Well in accordance with the applicable operating agreements and prudent industry practice;

(b) The Company has fulfilled all contractual or other covenants, obligations and conditions imposed upon Sellers and/or Company with respect to the Well, including payment of any and all required payments and has not knowingly and voluntarily waived any material rights under, amended, or terminated any Material Contract; and

(c) The Company has not entered into any agreements to drill new wells or to rework, plug back, deepen, plug or abandon the Well, or commence any drilling, reworking or completing or other operations on the Leases that have not be completed and fully satisfied by all parties thereto as of the Closing Date.

Section 3.09 Material Contracts.

(a) Section 3.09(a) of the Disclosure Schedules lists each contract that is material to the Company ("**Material Contracts**"), including the following:

(i) each Contract of the Company involving aggregate consideration in excess of $50,000 and which, in each case, cannot be cancelled by the Company without penalty or without more than 90 days' notice;

(ii) all contracts that provide for the indemnification by the Company of any Person or the assumption of any Tax (as defined in Section 3.18(a)), environmental, or other Liability of any Person;

(iii) all contracts relating to Real Property, including all easements, rights of way, and other agreements setting forth any rights, privileges, benefits and powers with respect to the use and occupation of the surface of, and the subsurface depths under, the Real Property or the lands used in the operation thereof;

(iv) all contracts relating to Intellectual Property, including all licenses, sublicenses, settlements, coexistence agreements, covenants not to sue, and permissions;

(v) except for contracts relating to trade payables, all contracts relating to indebtedness (including, without limitation, guarantees) of the Company;

(vi) all contracts that limit or purport to limit the ability of the Company to compete in any line of business or with any Person or in any geographic area or during any period of time; and

(vii) all licenses, servitudes, gas purchase and sale contracts (including interests and rights, if any, with respect to any prepayments, take-or-pay, buydown and buyout agreements) of Company, as well as production sales contracts, farmin agreements, farmout agreements, bottom hole agreements, acreage contribution agreements, operating agreements, unit agreements, processing agreements, salt water disposal agreements, water injection agreements, well service agreements, gas balancing agreements, division orders, transfer orders, options, leases of equipment or facilities, joint venture agreements, pooling agreements, transportation agreements, rights-of-way and other contracts, agreements and rights which are owned or held by Company or to which Company is a party, in whole or in part, and are appurtenant or relate to any Lease, Well or Drilling or Spacing Unit ("**DSU**").

(b) Each Material Contract is valid and binding on the Company in accordance with its terms and is in full force and effect. None of the Company or any other party thereto is in breach of or default under (or is alleged to be in breach of or default under) or has provided or received any notice of any intention to terminate, any Material Contract. Complete and correct copies of each Material Contract (including all modifications, amendments, and supplements thereto and waivers thereunder) have been made available to Buyer.

Section 3.10 Real Property; Title to Assets.

(a) Section 3.10(a) of the Disclosure Schedules lists all real property in which the Company has an ownership leasehold (or subleasehold) or other interest (together with all buildings, structures, and improvements located thereon, the "**Real Property**"), including: (i) the legal description of each parcel of Real Property; (ii) for Real Property that is leased or subleased by the Company (each a "**Lease**"), the expiration of the term of such lease or sublease, any termination or renewal rights of either party, and a description of the rights, privileges, benefits and powers with respect to the use and occupation of the surface of, and the subsurface depths under, the land covered thereby, as well as a description of the leasehold interests, mineral interests, royalty interests, overriding royalty interests, payments out of production, reversionary rights, contractual rights to development and/or production, and all other rights and interests relating thereto; and (iii) the Sellers' current known use of each parcel of Real Property. Sellers have delivered or made available to Buyer true, correct, and complete copies of all contracts, title insurance policies, and surveys relating to the Real Property. To Sellers' knowledge, none of the Real Property is subject to any restrictions on use of the surface in connection with the Company's operations that would materially affect such use or future intended operations. Subject to the terms of each Lease, Sellers have a legal right of access to all of the Real Property as would allow the use of any of the Assets for the purposes for which such Asset is currently owned and operated.

(b) To Sellers' knowledge, the Company has, or as of the Closing Date will have, good and valid (and, in the case of owned Real Property, good) title to, or a valid leasehold interest in, all Real Property and personal property and other assets (including all Related Assets (as defined below)) reflected in the Financial Statements or acquired after the Balance Sheet Date (other than properties and assets sold or otherwise disposed of in the ordinary course of business consistent with past practice since the Balance Sheet Date). All Real Property and such personal property and other assets (including leasehold interests) are free and clear of Encumbrances. The Company's interest in and to the leased mineral interests is free and clear of all liens created by, through or under the Company or any of its predecessors in interest. Sellers are conveying the Company's Leases to Buyer without any warranty of mineral title, express or implied, and Sellers do not make or provide (and Sellers hereby expressly disclaim) and Buyer hereby waives any representation or warranty, express or implied, or any other assurances concerning the description of said leased mineral interests.

(c) The Company is not a sublessor or grantor under any sublease or other instrument granting to any other Person any right to possess, lease, occupy, or use any leased Real Property. The use of the Real Property in the conduct of the Company's business does not violate in any material respect any Law, covenant, condition, restriction, easement, license, permit, or agreement and no material improvements constituting a part of the Real Property encroach on real property owned or leased by a Person other than the Company.

(d) "**Related Assets**" shall mean all of the personal and mixed property and facilities located in or on the Real Property that is owned by any Seller or the Company, in whole or in part, including any surface and subsurface well equipment and casing installed in the Well or any inventory and all other improvements used in the operation of said Well if and as applicable.

Section 3.11 Intellectual Property.

(a) The Company owns or has the valid and enforceable right to use all Intellectual Property (as defined below) used or held for use in or necessary for the conduct of the Company's business as currently conducted or as proposed to be conducted (including pursuant to the LOI and the Exploration Agreement (each as defined below)) (the "**Company Intellectual Property**"), free and clear of all Encumbrances. All of the Company Intellectual Property is valid and enforceable, and all Company IP Registrations are subsisting and in full force and effect. The Company has taken all necessary steps to maintain and enforce the Company Intellectual Property.

(b) Sellers' conduct of the Company's business as currently and formerly, as well as proposed to be conducted in the LOI and the Exploration Agreement and only to the extent set forth in the LOI and the Exploration Agreement, has not infringed, misappropriated, or otherwise violated and will not infringe, misappropriate, or otherwise violate the Intellectual Property or other rights of any Person. Further, prior to the Closing Date, no Person has infringed, misappropriated, or otherwise violated any Company Intellectual Property.

(c) "**Intellectual Property**" means any and all of the following in any jurisdiction: (i) issued patents and patent applications; (ii) trademarks, service marks, trade names, and other similar indicia of source or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications for registration, and renewals of, any of the foregoing; (iii) copyrights, including all applications and registrations; (iv) trade secrets, know-how, inventions (whether or not patentable), technology, and other confidential and proprietary information and all rights therein; (v) internet domain names and social media accounts and pages; (vi) technical data and subsurface information, including all geological and geophysical interpretations, and core samples, images, well logs, maps, surveys, and models; and (vi) other intellectual or industrial property and related proprietary rights, interests, and protections. Without limiting the foregoing in any way, the Parties agree that "Intellectual Property" includes any and all such intellectual property necessary to conduct the projects outlined in the LOI and the Exploration Agreement.

(d) "**Company IP Registrations**" means the Company's issued patents, registered trademarks, domain names and copyrights, and pending applications for any of the foregoing and all material unregistered Intellectual Property that are owned by the Company

Section 3.12 [Intentionally Omitted].

Section 3.13 Insurance. Section 3.13 of the Disclosure Schedules sets forth a true and complete list of all current policies or binders of insurance maintained by Sellers, the Company or any of their respective Affiliates (including the Company) and relating to the assets, business, operations, employees, officers, and sole member of the Company (collectively, the "**Insurance Policies**"). Such Insurance Policies: (a) are in full force and effect; (b) are valid and binding in accordance with their terms; (c) are provided by carriers who are financially solvent; and (d) have not been subject to any lapse in coverage. None of the Sellers, the Company, nor any of their respective Affiliates have received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. All premiums due on such Insurance Policies have been paid. None of Seller or any of its Affiliates (including the Company) is in default under, or has otherwise failed to comply with, in any material respect, any provision contained in any Insurance Policy. The Insurance Policies are of the type and in the amounts customarily carried by Persons conducting a business similar to the Company and are sufficient for compliance with all applicable Laws and contracts to which the Company is a party or by which it is bound. For purposes of this Agreement: (x) "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person; and (y) the term "**Control**" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

Section 3.14 Legal Proceedings; Governmental Orders.

(a) There are no claims, actions, causes of action, demands, lawsuits, arbitrations, inquiries, audits, notices of violation, proceedings, litigation, citations, summons, subpoenas, or investigations of any nature, whether at law or in equity (collectively, "**Actions**") pending or, to Sellers' knowledge, threatened against or by the Company, Sellers, or any Affiliate of any Seller: (i) relating to or affecting the Company or any of the Company's properties or assets; or (ii) that challenge or seek to prevent, enjoin, or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

(b) There are no outstanding, and the Company is in compliance with all, Governmental Orders against, relating to, or affecting the Company or any of its properties or assets.

Section 3.15 Compliance with Laws; Permits.

(a) The Company has complied, and is now complying, with all Laws applicable to it or its business, properties, or assets.

(b) All permits, licenses, franchises, approvals, registrations, certificates, variances, and similar rights obtained, or required to be obtained, from Governmental Authorities (collectively, "**Permits**") that are required for the Company to conduct its business, including, without limitation, owning or operating any of the Real Property, have been obtained and are valid and in full force and effect. Section 3.15(b) of the Disclosure Schedules list all current Permits issued to the Company and no event has occurred that would reasonably be expected to result in the revocation or lapse of any such Permit.

Section 3.16 Environmental Matters.

(a) The Company has complied, and is now complying, with all Environmental Laws. None of the Company nor any Seller has received notice from any Person that the Company, its business or assets, or any real property currently or formerly owned, leased, or used by the Company is or may be in violation of any Environmental Law or any applicable Law regarding Hazardous Substances.

(b) With regard to the Sellers' ownership of the Well and/or Sellers' operations conducted on or in the Well or on its Pad, there has not been any spill, leak or discharge, injection, dumping, disposal, or release of any kind of any Hazardous Substances in violation of any Environmental Law (i) with respect to the business or assets of the Company; or (ii) at, from, in, adjacent to, or on said Well or Pad. There are no Hazardous Substances that have been identified on any real property currently leased or used by the Company, and such real property is not affected in any way by any Hazardous Substances.

(c) As used in this Agreement: (i) "**Environmental Laws**" means all Laws now in effect, in each case as amended or supplemented from time to time, relating to the regulation and protection of human health, safety or the environment, including any federal, state, or local transfer of ownership notification or approval statutes; and (ii) "**Hazardous Substances**" means: (A) "hazardous materials," "hazardous wastes," "hazardous substances," "industrial wastes," or "toxic pollutants," as such terms are defined under any current Environmental Laws; (B) any other hazardous or radioactive substance, contaminant, or waste as defined under any current Environmental Laws; and (C) any other hazardous substance with respect to which any Environmental Law or Governmental Authority requires environmental investigation, regulation, monitoring, or remediation.

(d) Sellers have made available to Buyer complete and correct copies of all material environmental site assessment reports and studies, audits, analyses and correspondence regarding environmental matters relating to the Company. There are no existing environmental Liabilities pertaining to the Company.

Section 3.17 Employees; Employment Matters. Company has not had and does not have any employees or any persons that would be treated as employees for federal Income Tax purposes and, except for Brammer Engineering, Inc., Company has not had and does not have any independent contractors. Company has not sponsored, maintained or contributed to, and does not sponsor, maintain or contribute to any employee benefit plan.

Section 3.18 Taxes.

(a) All returns, declarations, reports, information returns and statements, and other documents relating to Taxes (including amended returns and claims for refund) (collectively, "**Tax Returns**") required to have been filed by the Company on or before the Closing Date have been timely filed. Such Tax Returns are true, correct, and complete in all respects. All Taxes due and owing by the Company (whether or not shown on any Tax Return) have been timely paid. No extensions or waivers of statutes of limitations have been given or requested with respect to any Taxes of the Company. Sellers have delivered to Buyer copies of all Tax Returns and examination reports of the Company and statements of deficiencies assessed against, or agreed to by, the Company for all Tax periods ending after December 31, 2022. The term "**Taxes**" means all federal, state, local, foreign, and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties, or other taxes, fees, assessments, or charges of any kind whatsoever, together with any interest, additions, or penalties with respect thereto and any interest in respect of such additions or penalties.

(b) The Company has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, customer, member, or other party, and has complied with all information reporting and backup withholding provisions of applicable Law.

(c) The Company has not been a member of an affiliated, combined, consolidated, or unitary Tax group for Tax purposes. The Company has no Liability for Taxes of any Person (other than the Company) under Treasury Regulations Section 1.1502-6 (or any corresponding provision of state, local, or foreign Law), as transferee or successor, by contract, or otherwise.

(d) There are no liens for Taxes (other than for current Taxes not yet due and payable) upon the assets of the Company.

(e) The Company has been classified as a partnership for U.S. federal, state, and local income tax purposes since its formation through the Closing Date, has not made an election to be classified as an association taxable as a corporation under Treas. Reg. §301.7701-3 and no such election is pending.

(f) The Company has not been treated as, and no facts or circumstances exist that would cause the Company to be treated as a “publicly traded partnership” within the meaning of Section 7704 of the Code for any taxable period ending on or before the Closing Date.

(g) If applicable, all severance, production, gross receipts, and ad valorem Taxes imposed with respect to the Well and attributable to any period (or portion thereof) ending on or before the Closing Date have been properly reported and timely paid, or are accrued as a liability on the interim financial statements and are properly reflected on Schedule 3.18 (g) of the Disclosure Schedules, including with respect to any Well operated by a third party where the Company’s share of such Taxes is remitted by the operator.

(h) No Seller is a "foreign person" as that term is used in Treasury Regulations Section 1.1445-2.

(i) No written claim has ever been made by a Governmental Authority in a jurisdiction where the Company does not file Tax Returns that the Company is or may be subject to Tax by that jurisdiction.

(j) The Company has not been audited by the Internal Revenue Service or any other Governmental Authority within five years prior to the Closing Date, and there is no investigation, audit, assessment or other Tax proceeding pending or proposed or, to Sellers’ knowledge, threatened in writing with respect to Taxes of the Company, and no basis exists therefor. No private letter rulings, technical advice memoranda or similar agreement or rulings have been requested, entered into or issued by any taxing authority with respect to the Company.

(k) The Company is not a party to any Tax allocation agreement, Tax indemnity agreement, Tax sharing agreement or other similar contract.

(l) The Company has not taken any reporting position on a Tax Return which reporting position (i) if not sustained would be more likely than not, absent disclosure, to give rise to a penalty for substantial understatement of federal income Tax under Section 6662 of the Code (or any similar provision of Tax Law), and (ii) has not adequately been disclosed on such Tax Return in accordance with Section 6662(d)(2)(B) of the Code (or any similar provision of Tax Law).

(m) There is no material property or obligation of the Company, including uncashed checks to vendors, customers, or employees, non-refunded overpayments, or unclaimed subscription balances, that is escheatable or reportable as unclaimed property to any state or municipality under any applicable escheatment or unclaimed property Laws.

Section 3.19 **Books and Records.** The minute books of the Company, all of which are in the possession of the Company and have been made available to Buyer, are complete and correct and contain accurate and complete records of all meetings and actions taken by written consent of the sole member, and no meeting, or action taken by written consent, of such member has been held for which minutes have not been prepared and are not contained in such minute books.

Section 3.20 **Brokers.** No broker, finder, or investment banker is entitled to any brokerage, finder's, or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Sellers.

Section 3.21 **Production**. The Well has been plugged and, during the term of Sellers' ownership thereof, has not had any active production. Accordingly, the Well has not experienced any imbalances.

Section 3.22 **Certain Financial Obligations**. There are no material subsisting defaults as to payments to be made under Leases or Material Contracts of the Company or (ii) material subsisting defaults as to payments of expenses and liabilities relating to the ownership of the Membership Interests or operation of the Company.

Section 3.23 **Wells.** As of the Closing Date, there are no "payout" balances to which the Company is subject that would result in a reversion or other adjustment at some level of cost recovery or payout (or passage of time or other event other than termination of a Lease by its terms). Company does not have any unfulfilled drilling obligations affecting the Leases. None of the Sellers nor the Company, nor any of their respective Affiliates is under any obligation to drill a well pursuant to any offset drilling obligations with respect to the Assets or any obligation to pay compensatory royalties or other payments resulting from any offset drilling obligations. There are no material subsisting defaults as to payments to be made under Material Contracts of the Company. There are no shut-in or otherwise inactive wells located on the Leases or on lands pooled or unitized therewith except for wells that have been properly plugged and abandoned.

Section 3.24 **Full Disclosure.** No representation or warranty by any Seller in this Agreement and no statement contained in the Disclosure Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer pursuant to this Agreement contains any untrue statement of a material fact, or omits a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Sellers that the statements contained in this ARTICLE IV are true and correct as of the date hereof. For purposes of this ARTICLE IV, "Buyer's knowledge," "knowledge of Buyer," and any similar phrases shall mean the actual knowledge of any manager or officer of Buyer.

Section 4.01 Organization and Authority of Buyer. Buyer is a corporation duly organized, validly existing, and in good standing under the Laws of the state of Nevada. Buyer has full corporate power and authority to enter into this Agreement and the other Transaction Documents to which Buyer is a party, to carry out its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any other Transaction Document to which Buyer is a party, the performance by Buyer of its obligations hereunder and thereunder, and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of Buyer. This Agreement and each Transaction Document to which Buyer is a party constitute legal, valid, and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms.

Section 4.02 No Conflicts; Consents. The execution, delivery, and performance by Buyer of this Agreement and the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) violate or conflict with any provision of the certificate of incorporation, bylaws, shareholder agreement, or other governing documents of Buyer; (b) violate or conflict with any provision of any Law or Governmental Order applicable to Buyer; or (c) require the consent, notice, declaration, or filing with or other action by any Person or require any Permit, license, or Governmental Order.

Section 4.03 Brokers. No broker, finder, or investment banker is entitled to any brokerage, finder's, or other fee or commission in connection with the transactions contemplated by this Agreement or any other Transaction Document based upon arrangements made by or on behalf of Buyer.

Section 4.04 Investment Purpose. Buyer is acquiring the Membership Interests solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any distribution thereof or any other security related thereto within the meaning of the Securities Act of 1933, as amended (the "**Securities Act**"). Buyer acknowledges that the Membership Interests are not registered under the Securities Act or any state securities laws and that the Membership Interests may not be transferred or sold except pursuant to the registration provisions of the Securities Act or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable.

ARTICLE V
COVENANTS

Section 5.01 **Confidentiality.** From and after the Closing, each Seller shall, and shall cause its Affiliates and each of their respective directors, managers, members, officers, employees, consultants, financial advisors, counsel, accountants, and other agents (collectively, "**Representatives**") to hold, in confidence any and all information, in any form, concerning the Company, except to the extent that such Seller can show that such information: (a) is generally available to and known by the public through no fault of such Seller, any of its Affiliates, or their respective Representatives; or (b) is lawfully acquired by such Seller, any of its Affiliates, or their respective Representatives from and after the Closing from sources which are not prohibited from disclosing such information by a legal, contractual, or fiduciary obligation. If a Seller or any of its Affiliates or their respective Representatives are compelled to disclose any information by Governmental Order or Law, such Seller shall promptly notify Buyer in writing and shall disclose only that portion of such information which is legally required to be disclosed, *provided that* such Seller shall also use reasonable best efforts to obtain as promptly as possible an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information.

Section 5.02 **Permitted Filings.** The Parties agree that Buyer shall be permitted to make any public filing, including any documents as exhibits thereto, as and if required by the United States Securities and Exchange Commission.

Section 5.03 **Non-Competition; Non-Circumvention; Non-Solicitation.** In consideration of the Purchase Price and the exchange of all of the other mutual covenants and agreements in this Agreement, as well as the parties causing the execution of the Exploration Agreement (whether directly or indirectly through an affiliate), each Seller agrees that it shall not, directly or indirectly, and that it shall cause each of its members, affiliates, representatives, brokers, contractors, successors, and assigns to not, directly or indirectly, circumvent or compete with Buyer or Company by pursuing, acquiring, marketing, financing, leasing, developing, assigning, farming out, selling, or otherwise exploiting any [***] (as defined below) opportunity, AMI (as defined below) opportunity, lease, lessor relationship, investor relationship, operator relationship, technical data, mineral title research, any opportunity contemplated by or otherwise related to those opportunities in the Letter of Intent dated June 23, 2026, between Cynergy Advisors LLC, a Texas limited liability company ("**Cynergy**") and the Company (as was assigned by Cynergy and to Buyer pursuant to that Interest Assignment Agreement on June 25, 2026 "**LOI**"), this Agreement, or the Exploration Agreement by and between Buyer, Company, and [***], a Mississippi limited liability company ("**Exploration Agreement**"), or any other opportunity that is competitive with Buyer or Company without Buyer's prior written consent. Any interest acquired or benefit gained in violation of this Section 5.03 shall be deemed held for the benefit of Buyer and shall remain subject to the applicable Cynergy Reserved ORRI (as defined in the Exploration Agreement). "[**Prospect**]" means an oil and gas exploration opportunity on and beyond its current approximate 2,999 net acre leasehold in [***], Louisiana, targeting multiple [***] gas reservoirs that exist within the Area of Mutual Interest (the "**AMI**"), to include all depths and all rights associated with the area shown on the plat set forth on Schedule 5.03 of the Disclosure Schedules, and as further described in the Exploration Agreement.

Section 5.04 **Further Assurances.** Following the Closing, each of the Parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents and instruments and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement and the other Transaction Documents.

ARTICLE VI
TAX MATTERS

Section 6.01 Tax Covenants.

(a) Without the prior written consent of Buyer, Sellers shall not, to the extent it may affect or relate to the Company: (i) make, change, or rescind any Tax election; (ii) amend any Tax Return; (iii) take any position on any Tax Return; or (iv) take any action, omit to take any action, or enter into any other transaction that would have the effect of increasing the Tax liability or reducing any Tax asset of Buyer or the Company, in respect of any taxable period that begins after the Closing Date or, in respect of any taxable period that begins before and ends after the Closing Date (each such period, a "**Straddle Period**"), the portion of such Straddle Period beginning after the Closing Date.

(b) All transfer, documentary, sales, use, stamp, registration, value added, and other such Taxes and fees (including any penalties and interest) incurred in connection with the transactions in this Agreement and the other Transaction Documents shall be borne and paid by Sellers when due. Sellers shall, at their own expense, timely file any Tax Return or other document with respect to such Taxes or fees (and Buyer shall cooperate with respect thereto as necessary).

(c) Except as otherwise provided in this Agreement, including this Section 6.01 or Section 6.02, Buyer shall prepare, or cause to be prepared, all Tax Returns required to be filed by the Company after the Closing Date with respect to any taxable period or portion thereof ending on or before the Closing Date and all Straddle Period Tax Returns. Any such Tax Return shall be prepared in a manner consistent with past practice (unless otherwise required by Law) and without a change of any election or any accounting method.

(d) Sellers shall prepare, or cause to be prepared, and timely file, or cause to be timely filed, a final IRS Form 1065 (and any corresponding state or local partnership returns) for the Company for the taxable period ending on the Closing Date, together with final Schedules K-1 for each Seller, all prepared in a manner consistent with the Company's past practice except as otherwise required by applicable Law. Sellers shall provide Buyer a draft of such final return not less than 30 days prior to the filing deadline (taking into account applicable extensions) for Buyer's review and comment, and shall not file such return without Buyer's consent, not to be unreasonably withheld.

Section 6.02 Straddle Period. In the case of Taxes that are payable with respect to a Straddle Period, the portion of any such Taxes that are allocated to Pre-Closing Tax Periods (as defined in Section 6.04) for purposes of this Agreement shall be: (a) in the case of Taxes (i) based upon, or related to, income, receipts, profits, wages, capital, or net worth, (ii) imposed in connection with the sale, transfer, or assignment of property, or (iii) required to be withheld, shall be determined based on an interim closing of the books as of the close of business on the Closing Date; and (b) in the case of other Taxes, the amount of such Taxes for the entire period multiplied by a fraction, the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire period.

Section 6.03 Termination of Existing Tax Sharing Agreements. Any and all existing Tax sharing agreements (whether written or not) binding upon the Company shall be terminated as of the Closing Date. After such date none of the Company, Sellers, nor any of Sellers' Affiliates and their respective Representatives shall have any further rights or liabilities thereunder.

Section 6.04 Tax Indemnification. Sellers shall indemnify the Company, Buyer, and each Buyer Indemnitee (as defined in Section 7.01) and hold them harmless from and against (a) any loss, damage, liability, deficiency, Action, judgment, interest, award, penalty, fine, cost, or expense of whatever kind (collectively, including reasonable attorneys' fees and the cost of enforcing any right to indemnification under this Agreement, "**Losses**") attributable to any breach of or inaccuracy in any representation or warranty made in Section 3.18; (b) any Loss attributable to any breach or violation of, or failure to fully perform, any covenant, agreement, undertaking, or obligation in ARTICLE VI; (c) all Taxes of the Company or relating to the business of the Company for all Pre-Closing Tax Periods (as defined below); (d) all Taxes of any member of an affiliated, consolidated, combined, or unitary group of which the Company (or any predecessor of the Company) is or was a member on or prior to the Closing Date by reason of a liability under Treasury Regulation Section 1.1502-6 or any comparable provisions of foreign, state, or local Law; and (e) any and all Taxes of any Person imposed on the Company arising under the principles of transferee or successor liability or by contract, relating to an event or transaction occurring before the Closing Date. In each of the above cases, together with any out-of-pocket fees and expenses (including attorneys' and accountants' fees) incurred in connection therewith, Sellers shall reimburse Buyer for any Taxes of the Company that are the responsibility of Sellers pursuant to this Section 6.04 within ten business days after payment of such Taxes by Buyer or the Company. For purposes of this Agreement, a "**Pre-Closing Tax Period**" means any taxable period ending on or before the Closing Date and, with respect to any taxable period beginning before and ending after the Closing Date, the portion of such taxable period ending on and including the Closing Date.

Section 6.05 Cooperation and Exchange of Information. Sellers and Buyer shall provide each other with such cooperation and information as either of them reasonably may request of the other in filing any Tax Return pursuant to this ARTICLE VI or in connection with any audit or other proceeding in respect of Taxes of the Company, including providing copies of relevant Tax Returns and accompanying documents. Each of Sellers and Buyer shall retain all Tax Returns and other documents in its possession relating to Tax matters of the Company for any Pre-Closing Tax Period (collectively, "**Tax Records**") until the expiration of the statute of limitations of the taxable periods to which such Tax Records relate.

Section 6.06 Contests.

(a) **Notice of Tax Claims**. Each Party will promptly notify the other Party in writing upon receipt by such party of notice of any pending or threatened audit, examination or proceeding by a Governmental Authority in respect of which an indemnity may be sought pursuant to Section 6.04 (a "**Tax Claim**"); provided, however, that the failure of such Party to give prompt notice shall not relieve the other Party of any of its obligations under this Section 6.06 except to the extent the other Party can demonstrate actual prejudice as a result of such failure. For these purposes, a "Governmental Authority" shall mean any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator or arbitral body, court or tribunal of competent jurisdiction.

(b) **Tax Claims for Pre-Closing Periods**. Unless otherwise provided in Section 6.06(d), Sellers shall control and resolve any Tax Claim relating solely to a Pre-Closing Tax Period for which the Sellers have an obligation to indemnify the Buyer, at the Sellers' cost and expense; provided, however, that the Buyer shall have the right, at its own expense, to participate in, and consult with the Sellers regarding any such Tax Claim. Should Buyer elect to participate in the resolution of such Pre-Closing Tax Claim, Sellers may not settle, compromise or resolve any such Tax Claim without the consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed. In the event that Buyer elects not to participate in the resolution of such Pre-Closing Tax Claim, Sellers shall settle, compromise or resolve any such Tax Claim without the consent of Buyer.

(c) **Tax Claims for Straddle Periods and Post-Closing Periods**. Unless otherwise provided in Section 6.06(d), Sellers shall have the right to participate jointly with the Buyer in representing the interests of the Company in any Tax Claim relating to a Straddle Period, if and to the extent that such period includes any Pre-Closing Tax Period, at the Sellers' cost and expense. Any settlement or other disposition of any Tax Claim relating to a Straddle Period may only be made with the consent of Sellers and Buyer, which consent shall not be unreasonably withheld, conditioned or delayed. Buyer shall have sole control over any Tax Claim relating to a taxable period that begins after the Closing Date.

(d) **Partnership Audits.**

(i) With respect to any audit, examination, or adjustment proceeding under Sections 6221–6241 of the Code (or any analogous state or local law) relating to any taxable period of the Company ending on or before the Closing Date, Sellers shall have the right to control the defense of such proceeding at Sellers' expense, and Buyer shall cause the Company (or its successor) to cooperate as reasonably requested, including by taking any action necessary to designate a partnership representative or designated individual selected by Sellers for such purpose. Buyer shall not, and shall not permit the Company or any successor to, settle, compromise, or otherwise resolve any such proceeding without Sellers' prior written consent.

(ii) If the Company receives a notice of final partnership adjustment with respect to any taxable period ending on or before the Closing Date, Sellers shall cause the partnership representative to timely make, and Buyer shall cooperate in facilitating, an election under Section 6226 of the Code (a "push-out election") or, if such election is not available, to comply with the cease to exist procedures under Treasury Regulation 301.6241-3, to cause any resulting imputed underpayment to be assessed against, and be the responsibility of, the Sellers, who were members of the Company during the reviewed year, rather than borne by the Company or Buyer.

(iii) To the extent a push-out election under Section 6226 is unavailable or is not fully effective to shift an imputed underpayment away from the Company or its successor, Sellers shall indemnify Buyer and the Company (or its successor) for the full amount of any such imputed underpayment (including associated penalties and interest) attributable to a taxable period ending on or before the Closing Date.

Section 6.07 Intended Tax Treatment. Sellers and Buyer agree that the transaction contemplated hereby will be treated for U.S. federal income Tax purposes and applicable state income Tax purposes as a sale by Sellers of all of the partnership interests in a partnership and purchase by the Buyer of all of the assets of such partnership, in accordance with IRS Revenue Ruling 99-6, Situation 2 as a consequence of which the Company shall terminate as a partnership, and the Company's current taxable year shall close on the Closing Date for U.S. federal income tax purposes (the "**Intended Tax Treatment**"). No party shall take any action or position, including on any Tax Return, inconsistent with the Intended Tax Treatment unless otherwise required by applicable Law.

Section 6.08 Tax Allocation. Sellers and Buyer agree that the Purchase Price shall be allocated among the assets of the Company for U.S. federal and applicable state and local income tax purposes as agreed by their respective accountants, negotiating in good faith on their behalf (the "Allocation"). The Allocation shall be consistent with Schedule 6.08 and Section 1060 of the Code and the Treasury Regulations promulgated thereunder, and any analogous provisions of state or local Law, and shall be binding on the Buyer and Sellers for all Tax purposes. Buyer and Sellers shall report, act, and file Tax Returns in all respects and for all purposes consistent with the Allocation. Neither the Buyer nor the Sellers shall take any position on any Tax Return that is inconsistent with the Allocation, except as otherwise required by a "determination" within the meaning of Section 1313(a) of the Code.

Section 6.09 Survival. Notwithstanding anything in this Agreement to the contrary, the provisions of Section 3.18 and this ARTICLE VI shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation, or extension thereof) plus ninety (90) days.

ARTICLE VII
INDEMNIFICATION

Section 7.01 Indemnification by Sellers. Subject to the other terms and conditions of this ARTICLE VII, Sellers shall jointly and severally indemnify and defend each of Buyer and its Affiliates (including the Company) and their respective Representatives (collectively, the "**Buyer Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, with respect to, or by reason of:

(a) [***

(b) ***].

Section 7.02 Indemnification by Buyer. Subject to the other terms and conditions of this ARTICLE VII, Buyer shall indemnify and defend each of the Sellers and their respective Affiliates and Representatives (collectively, the "**Seller Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to, or by reason of:

(a) [***

(b) ***].

Section 7.03 Indemnification Procedures. Whenever any claim shall arise for indemnification hereunder, the party entitled to indemnification (the "**Indemnified Party**") shall promptly provide written notice of such claim to the other party (the "**Indemnifying Party**"). In connection with any claim giving rise to indemnity hereunder resulting from or arising out of any Action by a Person who is not a party to this Agreement, the Indemnifying Party, at its sole cost and expense and upon written notice to the Indemnified Party, may assume the defense of any such Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall be entitled to participate in the defense of any such Action, with its counsel and at its own cost and expense. If the Indemnifying Party does not assume the defense of any such Action, the Indemnified Party may, but shall not be obligated to, defend against such Action in such manner as it may deem appropriate, including settling such Action, after giving notice of it to the Indemnifying Party, on such terms as the Indemnified Party may deem appropriate and no action taken by the Indemnified Party in accordance with such defense and settlement shall relieve the Indemnifying Party of its indemnification obligations herein provided with respect to any damages resulting therefrom. The Indemnifying Party shall not settle any Action without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld or delayed).

Section 7.04 Survival. Subject to the limitations and other provisions of this Agreement, all representations and warranties contained herein and all related rights to indemnification shall survive the Closing and shall remain in full force and effect until the date that is two (2) years from the Closing Date; *provided, however*, that the representations and warranties in (a) Section 3.01, Section 3.02, Section 3.03, Section 3.04, Section 3.16, Section 3.17, Section 3.20, Section 4.01, Section 4.02, Section 4.03 and Section 4.04 shall survive indefinitely; and (b) Section 3.18 shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation, or extension thereof) plus 90 days. Subject to ARTICLE VI, all covenants and agreements of the Parties contained herein shall survive the Closing indefinitely unless another period is explicitly specified herein. Notwithstanding the foregoing, any claims which are timely asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching Party to the breaching Party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

Section 7.05 Effect of Diligence. The representations, warranties and covenants of the Sellers and relating to the Company, and Buyer's right to indemnification with respect thereto, shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Buyer or by reason of the fact that the Buyer knew or should have known that any such representation, warranty or covenant is, was or might be inaccurate, false or misleading in any way. The representations, warranties and covenants of Buyer and relating to the Company, and Sellers' right to indemnification with respect thereto, shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Sellers or by reason of the fact that the Sellers knew or should have known that any such representation, warranty or covenant is, was or might be inaccurate, false or misleading in any way.

Section 7.06 Cumulative Remedies. The rights and remedies provided for in this ARTICLE VII (and in ARTICLE VI) are cumulative and are in addition to and not in substitution for any other rights and remedies available at Law or in equity or otherwise.

Section 7.07 No Double Recovery. No Indemnified Party shall be entitled to recover under more than one provision of this Agreement or any other Transaction Document for any Losses that have been recovered under another provision of this Agreement or any other Transaction Document. Furthermore, for the avoidance of doubt, no Indemnified Party shall be entitled to recover from an Indemnifying Party, Losses which it has already recovered from another Indemnifying Party.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 **Expenses.** All costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses.

Section 8.02 **Notices.** All notices, claims, demands, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent or emailed of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid, if sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 8.02):

If to Sellers: [***]

with a copy (which shall not constitute notice) to:

If to Buyer: [***]

with a copy (which shall not constitute notice) to:

[***]

Section 8.03 **Interpretation; Headings.** This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 8.04 **Severability; Reformation.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement. Furthermore, to the extent any provision of this Agreement is judicially determined to be invalid, illegal, or unenforceable, a court of competent jurisdiction may reform any such provision to make it enforceable under applicable law, reflecting the original intent of the Parties to the maximum extent permitted. For the avoidance of doubt and without limiting the foregoing, the Parties specifically agree that Section 5.03 may be so reformed if such provision is found to be unenforceable as written.

Section 8.05 **Entire Agreement.** This Agreement and the other Transaction Documents constitute the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents or the Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

Section 8.06 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party may assign its rights or obligations hereunder without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning Party of any of its obligations hereunder.

Section 8.07 Amendment and Modification; Waiver. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No failure to exercise, or delay in exercising, any right or remedy arising from this Agreement shall operate or be construed as a waiver thereof. No single or partial exercise of any right or remedy hereunder shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

Section 8.08 Governing Law; Submission to Jurisdiction. This Agreement is governed by and will be construed according to the laws of the State of Texas, excluding any conflicts-of-law rule or principle that might apply the law of another jurisdiction. All disputes related to this Agreement shall be submitted to the jurisdiction of the courts of the State of Texas and venue shall be in the civil district courts of Bexar County, Texas. EACH PARTY HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL IN ANY LAWSUIT, ACTION, OR PROCEEDING BETWEEN OR AMONG THE PARTIES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 8.09 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

SELLERS:

[***]

BUYER:

EXPION ENERGY, INC.

By: _____

EXHIBIT A

DEFINITIONS CROSS-REFERENCE TABLE

[***]

Exhibit 10.4

[Pursuant to Item 601(b)(10)(iv) of Regulation S-K, certain information marked with "[***]" has been omitted as it is (i) not material and (ii) is customarily and actually treated as private or confidential by the registrant.]

[***]

Exploration Agreement

by and between

Expion Energy, Inc.,

[***], and

[***]

Effective as of August 21, 2026

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Exhibit A – AMI Plat
Exhibit B – Existing Leases Plat and List
Exhibit C – Previous Mineral Tracts Leased by Members of [Seller] within the AMI
Exhibit D – Form of Lease
Exhibit E – Well

EXPLORATION AGREEMENT
[***]
[***], Louisiana

August 21, 2026

This Exploration Agreement (hereinafter, this "**Agreement**"), is by and between EXPION ENERGY, INC. ("**Expion**"), [***] [("**Seller**")], and [***] [("**Lease Manager**")], and is effective for all purposes as of August 21, 2026 (the "**Effective Date**"). In this Agreement, Expion, [Seller], and [Lease Manager] are sometimes referred to herein individually as a "**Party**" and, collectively, as the "**Parties**".

RECITALS

WHEREAS, [Seller] identified an oil and gas exploration opportunity [(the "**Prospect**")] on and beyond its current approximate 2,999 net acre leasehold in [***], Louisiana, targeting multiple [***] gas reservoirs that exist within the Area of Mutual Interest (the "**AMI**") depicted as the area shown on the plat labeled **Exhibit "A" ("[***] Area of Mutual Interest ("AMI")")** attached hereto, which supersedes any and all previous AMI plats, including but not limited to the AMI plat attached to and referenced in that certain Non-Disclosure Agreement entered into by and between Cynergy (defined below) and [Seller], dated April 23, 2026 (the "**Confidentiality Agreement**");

WHEREAS, Cynergy Advisors LLC, a Texas limited liability company ("**Cynergy**") and [Seller] entered into that certain Letter of Intent dated June 23, 2026 (the "**LOI**") that entitled Cynergy, subject to certain terms and conditions as more fully set forth therein, to assign all of its rights, obligations, and liabilities under the LOI, including by operation of law, change of control, or merger, to a public company (the "**Assignment**");

WHEREAS, on June 25, 2026, Cynergy and [Seller] entered into that certain Consent to Assignment and Waiver of Notice Requirement wherein [Seller] (i) consented to that certain Interest Assignment Agreement (the "**Interest Assignment Agreement**") by and between Cynergy and Expion for the assignment of certain of Cynergy's rights and obligations under the LOI to Expion, effective as of June 25, 2026; and (ii) waived the [***] prior written notice requirement set forth in Paragraph C.13(a) of the LOI, allowing the Assignment to be executed and become effective on June 25, 2026;

WHEREAS, reference is made to that certain Membership Interest Purchase Agreement, dated as of August 21, 2026, by and between Expion and [Seller], pursuant to which Expion has agreed to acquire, and the members of [Seller] have agreed to sell, all of their membership units of [Seller] to Expion, pursuant to the terms and conditions set forth therein (the "**Membership Interest Purchase Agreement**");

WHEREAS, the Parties acknowledge and agree that [Seller] owns or controls certain oil, gas and Other Mineral Assets relating to the [Prospect] within the AMI;

WHEREAS, Expion, as successor in interest and assignee of Cynergy pursuant to the Interest Assignment Agreement, (i) has paid to [Seller] a non-refundable amount equal to $175,000 (the "**Earnest Money Deposit**"), which shall be deducted from the Purchase Price (as defined below), (ii) shall pay to [Lease Manager] an amount equal to three million five hundred thousand U.S. Dollars ($3,500,000) (the "**Purchase Price**") for (a) the rights and interests of Cynergy as contemplated by the LOI, and (b) the rights and interest of Expion as contemplated by the Membership Interest Purchase Agreement, including the acquisition of the membership units in [Seller], [Seller]'s ownership of the Well, and [Seller]'s existing leasehold within the AMI;

WHEREAS, the Parties understand and agree that any and all other financial assets of [Seller], including those funds that were in [Seller]'s checking account at [***] prior to the execution of the Membership Interest Purchase Agreement and/or this Agreement ("**Pre-Existing Funds**"), are explicitly excluded from the definition of Assets and are not being transferred pursuant to the Membership Interest Purchase Agreement and/or this Agreement, and said Pre-Existing Funds are the sole property of those members of [Seller] that have agreed to sell all of their membership units in [Seller] to Expion as set forth in the Membership Interest Purchase Agreement. The Pre-Existing Funds shall be transferred by those members, the sole owners of said funds, to [Lease Manager]'s checking account (or other financial holding accounts, at their sole discretion) upon or before the execution of the Membership Interest Purchase Agreement and this Agreement. For the avoidance of doubt, no adjustment to the Purchase Price shall be made except as expressly agreed to in writing by the Parties.

In addition, the value of the $100,000 certificate of deposit currently held by [Seller] at [***] to fund the irrevocable standby [Letter of Credit], which had been funded by those members of [Seller] that had agreed to sell all of their membership units in [Seller] to Expion as set forth in the Membership Interest Purchase Agreement, will be added to the Purchase Price. As such, the amounts due and payable at time of Closing shall be the **Adjusted Purchase Price**;

WHEREAS, the Parties acknowledge that the Existing Leases shall remain assigned to [Seller], subject only to the [Lease Manager] ORRI – Existing Leases. For the avoidance of doubt, the Parties acknowledge and agree that the [Lease Manager] ORRIs shall be assigned by [Seller] to [Lease Manager] or reserved by [Lease Manager] prior to its assignment of any Existing Lease to [Seller]; and

WHEREAS, the Parties have agreed to enter into this Agreement pursuant to which [Lease Manager] will serve solely as the lease manager for the [Prospect] and provide [Seller] and Expion with certain leasing services on and subject to the terms and conditions set forth herein, without authority to bind Expion, [Seller], Cynergy, or the [Prospect] except as expressly authorized in writing by Expion;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

A. DEFINITIONS

1. The following terms, when used in this Agreement, have the meanings ascribed to them.

i. ***Adjusted Purchase Price*** means the Purchase Price ($3,500,000) minus the Earnest Money Deposit ($175,000) plus the reimbursement of the Certificate of Deposit for the Brammer Letter of Credit ($100,000) = $3,425,000.

ii. ***Agreement*** has the meaning set forth in the introductory paragraph.

iii. ***AMI*** has the meaning set forth in the Recitals and the Exhibit A attached hereto.

iv. ***Assets*** means only: (i) Existing Leases; (ii) the Well; and (iii) such assignable rights, interests, contracts, lease records, title files, and other asset-related materials as are expressly conveyed, made available, or licensed to Expion under this Agreement, the Membership Interest Purchase Agreement, the LOI, and the other definitive transaction documents.

v. ***Assignment*** has the meaning set forth in the Recitals.

vi. [***Contractor***] means [***].

vii. [***Letter of Credit***] means that certain obligation of [Seller] to provide in favor of [Contractor], pursuant to Section 3 of that certain Contract Operator Agreement by and between [Seller] and [Contractor] dated August 6, 2024, an irrevocable standby Letter of Credit totaling $100,000 to cover the plugging and abandonment of said Well.

viii. ***Closing*** means the date on which all of the following shall have occurred: (i) this Agreement is fully executed, (ii) the Membership Interest Purchase Agreement is fully executed, (iii) the Adjusted Purchase Price has been paid, and (iv) the membership units of [Seller] are transferred.

ix. ***Commencement Date*** has the meaning set forth in Section C.2.

x. ***Confidentiality Agreement*** has the meaning set forth in the Recitals.

xi. ***Cynergy*** has the meaning set forth in the Recitals.

xii. ***Cynergy Reserved ORRI*** means an overriding royalty interest equal to [***].

xiii. ***Earnest Money Deposit*** has the meaning set forth in the Recitals.

xiv. ***Effective Date*** has the meaning set forth in the introductory paragraph.

xv. ***Existing Leases*** means [Seller]'s existing leases as depicted and/or listed on **Exhibit "B"** attached hereto.

xvi. ***Expion*** has the meaning set forth in the introductory paragraph and the Recitals.

xvii. ***[Lease Manager]*** has the meaning set forth in the introductory paragraph, the members of which are [***].

xviii. ***[Lease Manager] ORRI – Existing Leases*** means an overriding royalty interest, [***].

xix. ***[Lease Manager] ORRI – Previous Leases*** means an overriding royalty interest [***].

xx. ***[Lease Manager] ORRI – New Leases*** means an overriding royalty interest [***].

xxi. ***[Lease Manager] ORRI*** means the [Lease Manager] ORRI – Existing Leases, the [Lease Manager] ORRI – Previous Leases, and the [Lease Manager] ORRI – New Leases.

xxii. ***Interest Assignment Agreement*** has the meaning set forth in the Recitals.

xxiii. ***Lease Budget*** – has the meaning set forth in Section B.2.

xxiv. ***Lease Management Fee*** – means the payment to [Lease Manager] of $50 per acre leased for any New Leases or Previous Leases obtained pursuant to this Agreement. For the avoidance of doubt, the Parties agree that the Lease Management Fee is intended to be an "all-in fee" and shall not be increased due to costs or expenses incurred by [Lease Manager] or other third parties on behalf of [Lease Manager] including but not limited to those cost or expenses related to [***].

xxv. ***Lease Manager*** has the meaning set forth in the Recitals.

xxvi. ***LOI*** has the meaning set forth in the Recitals.

xxvii. ***Membership Interest Purchase Agreement*** has the meaning set forth in the Recitals and elsewhere in the Agreement.

xxviii. ***Mandatory Well Operation*** has the meaning set forth in Section C.1.

xxix. ***New Leases*** has the meaning set forth in Section B.7.

xxx. ***ORRI*** means the [Lease Manager] ORRI and the Cynergy Reserved ORRI.

xxxi. ***Other Minerals*** means the "other minerals" (or such other similar term as may be used in the applicable lease) as such term is defined in the applicable lease.

xxxii. ***Parties*** has the meaning set forth in the introductory paragraph.

xxxiii. ***Party*** has the meaning set forth in the introductory paragraph.

xxxiv. ***Pre-Existing Funds*** has the meaning set forth in the Recitals.

xxxv. ***Previous Leases*** has the meaning set forth in Section B.5.

xxxvi. ***Project Information*** has the meaning set forth in Section D.3.

xxxvii. ***Purchase Price*** has the meaning set forth in the Recitals.

xxxviii. ***Services*** has the meaning set forth in Section B.1.

xxxix. ***Term*** has the meaning set forth in Section B.8.

xl. ***Total Lease Costs*** has the meaning set forth in Section B.2.

xli. ***TVD*** has the meaning set forth in Section C.1.

xlii. ***Well*** means [***] as reflected on **Exhibit "E"** attached hereto.

xliii. ***Well Data*** has the meaning set forth in Section D.6.

xliv. ***[Prospect]*** has the meaning set forth in the Recitals.

xlv. ***[Seller]*** has the meaning set forth in the introductory paragraph.

B. PROVISION OF LEASING SERVICES; ORRI ENTITLEMENTS; TERM

1. **Services Provided.** As the designated Lease Manager, [Lease Manager] agrees to provide certain mineral title research, leasing, and other services (the "**Services**") to [Seller], which following the Parties' execution of both the Membership Interest Purchase Agreement and this Agreement shall be owned and managed by Expion subject to the terms and conditions set forth in this Agreement and the Membership Interest Purchase Agreement. The Services to be provided by [Lease Manager] include but are not limited to (i) the oversight of the leasing agents (brokerage companies) that will research mineral title and negotiate leases with potential lessors on behalf of the Parties; (ii) the supervision of the locally-based personnel that will interface with the lessors and provide various services related to the logistics of obtaining the enforceable leases; (iii) full report generation and real-time online access to the lease database; and (iv) digital map generation with online interactive search capabilities. The Parties agree that the form of oil, gas, and minerals lease to be used will be in substantially the same form recently used by [Seller] within the AMI and attached hereto as **Exhibit "D"**. The Parties also agree that [Lease Manager], solely in its capacity as the Lease Manager, will be entitled to use a copy of [Seller]'s mineral title research solely for the purpose of facilitating its leasing and re-leasing efforts related to the [Prospect]. The Parties acknowledge and agree that all commercially reasonable efforts will be taken to ensure that the leases obtained by [Lease Manager] pursuant to this Agreement reflect [Seller] as the lessee, however, to the extent a lease is unable to be obtained with the lessee reflected as [Seller], [Lease Manager] shall convey such lease, or shall cause such lease to be conveyed, to [Seller] within five (5) business days of [Lease Manager] obtaining such lease. For the avoidance of doubt all leases obtained by [Lease Manager] within the AMI during the Term shall be subject to this Agreement and the AMI at the time such lease is obtained regardless of whether the lessee on such lease is reflected as [Seller], [Lease Manager], or a third-party.

2. **Total Lease Costs.** As each New Lease and each Previous Lease is successfully negotiated in accordance with a general budget and leasing parameters which shall be finalized and approved in writing by Expion prior to the launch of the leasing program (the "**Lease Budget**"), [Lease Manager] will notify Expion and [Seller] of the pending bonus payment associated with each successfully negotiated and obtained New Lease and Previous Lease and the estimated Lease Management Fee for each New Lease and each Previous Lease, collectively the "**Total Lease Costs**" of each newly acquired New Lease and Previous Lease. The Parties acknowledge and agree that the Existing Leases shall not be subject to any Lease Management Fee. For the avoidance of doubt, the Lease Management fee shall include all associated lease costs other than the **lease bonus.**

3. **Timely Payment of Total Lease Costs.** Upon receipt of [Lease Manager]'s notification, reasonable documentation, and request for payment for leases negotiated in accordance with an approved budget and leasing parameters, Expion or [Seller] shall use commercially reasonable efforts to promptly pay to [Lease Manager] via wire transfer the approved Total Lease Costs for each such requested lease, but in no event later than five (5) business days from the date of [Lease Manager]'s request. To the extent a requested payment for a lease was not previously approved in writing by Expion, [Lease Manager] acknowledges that neither Expion nor [Seller] shall have any obligation to fund any lease cost, fee, or expense attributable to, or arising from the unapproved lease acquisition.

4. **Provision of Leasing Updates.** On or before the fifth day of each month, [Lease Manager] shall email to Expion and [Seller] a ledger in spreadsheet form that shall list those leases that were acquired in the previous month. The ledger shall include the tract name and number; the lease bonus paid; the date the lease was executed; the gross and net acres of the lease; the primary term of the lease, and any option to extend the lease that was negotiated; and the date the primary term of the lease will expire, as well as any other information related to such leases reasonably requested by Expion or [Seller].

5. **Leasing Priority.** The Parties understand and agree that the initial highest priority for the leasing effort within the AMI is the re-leasing of those mineral tracts within the AMI that were previously leased by members of [Seller] either for their own account or the account of others between [***] (excluding the Existing Leases), as depicted on **Exhibit "C"** attached hereto (the "**Previous Leases**"). [Lease Manager] represents to Expion and [Seller] that the Previous Leases cover approximately 8,210 net acres (as also depicted on the attached Exhibit "C"), more or less.

6. **ORRI Entitlement – Previous Leases.** For each of the Previous Leases acquired within the AMI, the [Lease Manager] ORRI – Previous Leases shall burden the Previous Leases. For the avoidance of doubt the Parties acknowledge and agree that the [Lease Manager] ORRIs on any and all Previous Leases shall be assigned by [Seller] to [Lease Manager] or reserved by [Lease Manager] prior to its assignment of any Previous Lease to [Seller].

7. **ORRI Entitlement – New Leases.** For any and all newly acquired leases (excluding Existing Leases and Previous Leases) within the AMI (collectively, the "**New Leases**"), the [Lease Manager] ORRI – New Leases and the Cynergy Reserved ORRI shall burden the New Leases. For the avoidance of doubt the Parties acknowledge and agree that the [Lease Manager] ORRIs on any and all New Leases shall be assigned by [Seller] to [Lease Manager] or reserved by [Lease Manager] prior to its assignment of any New Lease to [Seller] and the Cynergy Reserved ORRI may be assigned by Cynergy to an assignee.

8. **Term of This Agreement.** The Parties understand and agree that the Term of this Agreement and the AMI shall commence on the Effective Date of this Agreement and shall expire [***] after the expiration of the last lease acquired by and for the Parties within either the AMI perimeter, whether said lease was or was not held by production during said Term, unless extended by written agreement of Expion and [Seller]. During the Term of this Agreement, the Parties shall not acquire any leases within the AMI perimeter unless those leases are acquired under the terms and conditions of this Agreement, for the mutual benefit of the Parties, and shall be subject to the applicable [Lease Manager] ORRI and Cynergy Reserved ORRI as set forth in this Agreement.

C. MANDATORY WELL OPERATION; LEASING OBJECTIVES

1. **Mandatory Well Operation.** The Parties acknowledge that the intent of this Agreement is to facilitate the testing of the [Prospect] with the lateral drilling and testing of the [***] within the AMI. Expion (as successor and assignee of Cynergy) shall use commercially reasonable efforts to initiate and conduct such testing or drilling activity, which shall be designated the "**Mandatory Well Operation**". The Mandatory Well Operation shall consist of the directional drilling of a new lateral wellbore from (out of) said Well with total measured lateral length of no less than 4,000 feet, to a mutually agreed bottom-hole location and true vertical depth ("**TVD**"). Expion, as manager of [Seller] following Closing, shall have the sole right and discretion to either (i) operate the Mandatory Well Operation itself, (ii) to the extent agreed to by Cynergy, designate Cynergy as the operator, or (iii) designate an experienced third-party contract operator, acceptable to Expion, capable of acting as a reasonably prudent operator and efficiently operating the contemplated wellbore operation. For the avoidance of doubt, the Parties acknowledge and agree that Cynergy shall have no obligation to act as operator or incur any development, operating, plugging, abandonment, or capital funding obligation except as expressly agreed in writing by Cynergy.

2. **Commencement Date – Mandatory Well Operation.** Unless otherwise agreed to in writing by the Parties, the commencement date for the Mandatory Well Operation shall occur not later than February 15, 2027 (the "**Commencement Date**"). Should market conditions or occurrences beyond Expion's reasonable control prevent Expion or [Seller] from commencing the Mandatory Well Operation by the Commencement Date, Expion or [Seller] shall notify [Lease Manager] regarding the cause of the delay, and the Parties shall work in good faith to agree on a reasonable extension or alternate third-party participation structure consistent with the intention of the Parties.

3. **Failure to Commence the Mandatory Well Operation for Other Reasons.** Should Expion or [Seller] elect not to proceed with the Mandatory Well Operation for reasons other than market conditions or occurrences beyond Expion's reasonable control, Expion or [Seller] shall promptly notify [Lease Manager] of its election and agree to work in good faith with [Lease Manager] to seek out a third party that can assist in fulfilling such obligation. [Lease Manager] shall have no exclusive marketing right, reimbursement priority, carried interest, additional overriding royalty interest entitlement, reversionary interest entitlement, or entitlement to sale proceeds in connection with any such process unless expressly approved in writing by Expion.

4. **Leasing Objectives; Expected Capital Commitments.** Expion expects that its initial financial capital commitment will include the allocation of up to four million U.S. dollars (**$4,000,000**) to finance the commencement of the re-leasing of the Previous Leases, as well as the proposed acquisition of the New Leases, with no less than two million five hundred thousand U.S. dollars (**$2,500,000**) dedicated to seeking to acquire a minimal leasehold position of approximately [***] net acres. For the avoidance of doubt, these expected capital commitments shall not obligate Expion or [Seller] to fund unapproved lease costs, expenses, or economic burdens beyond those expressly required under this Agreement and approved by Expion in writing.

5. **Operation of the Well.** The Parties understand and agree that [Seller] shall continue to own the Well after the execution of this Agreement and the Membership Interest Purchase Agreement by the Parties, subject to Expion's rights as owner and manager of [Seller] following Closing. Until such time that [Seller] has elected to replace [Contractor] as the state-approved contract operator of the Well, [Seller] may continue to maintain its contract operator relationship with [Contractor] and the [Letter of Credit].

6. **No Clawback; Preservation of Remedies.** Notwithstanding anything to the contrary in this Agreement, no payment, transfer, reimbursement, distribution, or exclusion of funds shall waive, limit, impair, or release any claim, remedy, offset right, indemnity right, title-defect right, environmental claim, regulatory claim, fraud (actual, constructive, or statutory) claim, breach claim, or other right of Expion, [Seller], [Lease Manager], or Cynergy under this Agreement, the Membership Interest Purchase Agreement, the Interest Assignment Agreement, or applicable law.

D. MISCELLANEOUS

1. **Entire Agreement; Priority of Documents.** This Agreement contains the entire agreement of the Parties relative to the subject matter hereof, with the exception of the terms and provisions of the Membership Interest Purchase Agreement and the Interest Assignment Agreement, and supersedes any and all prior oral and written agreements. This Agreement was drafted jointly by the Parties and therefore should not be interpreted in favor of or against any Party to this Agreement under rule of interpretation relating to the drafting of the Agreement.

2. **Confidentiality.** Except as otherwise provided herein and subject to SEC and/or other governmental regulations, securities exchange rules, financing requirements, and disclosures required by applicable law, all terms of this Agreement shall be kept confidential, and no Party shall issue any press release or other public announcement regarding any aspect of the [Prospect], including any leasing, drilling, origination, or acquisition information, without first obtaining the written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned, or delayed. For the avoidance of doubt, the existence of this Agreement, the negotiations related thereto, and any ancillary agreements or transaction documents contemplated by or related thereto may be disclosed to Cynergy and its representatives, agents, and advisors, and such disclosure shall not be a breach of this Agreement.

3. **Ownership and Use Rights in Project Information**. [Seller] retains ownership of any Project Information that constitutes [Seller]'s pre-existing proprietary information, subject to the rights granted in this Agreement, the LOI, the Membership Interest Purchase Agreement, the Interest Assignment Agreement, and the other definitive transaction documents. Excluding Project Information that includes [***], Expion may use, copy, disclose, and retain Project Information as reasonably necessary or advisable for due diligence, title review, leasing, acquisition, financing, securities-law compliance, regulatory compliance, operations, development, farmout or third-party investment discussions, accounting, audit, tax, enforcement of rights, and protection of the [Lease Manager] ORRI and the Cynergy Reserved ORRI. All Project Information is subject to the use, disclosure, public-company reporting, third-party license, and Cynergy Reserved ORRI protection provisions of this Agreement. For the avoidance of doubt, Project Information is not itself part of the real property or leasehold estate burdened by the Cynergy Reserved ORRI, and no restriction on Project Information shall reduce, dilute, impair, terminate, subordinate, condition, or adversely affect the [Lease Manager] ORRI or the Cynergy Reserved ORRI.

For purposes of this Agreement, "**Project Information**" means mineral title research, lease files, geological and geophysical interpretations, technical data, maps, reports, databases, interpretations, analyses, and other non-public information relating to the [Prospect] or AMI that [Seller] or [Lease Manager] provides or makes available to Expion, Cynergy, or their respective representatives, whether before or after the Effective Date, including information previously disclosed to Cynergy under the Confidentiality Agreement, but excluding any information that Expion or Cynergy can demonstrate is publicly available, independently developed without use of [Seller]'s non-public information, received from a third party without known confidentiality restriction, or approved for disclosure under this Agreement.

4. **Permitted Disclosures**. The Parties may disclose Project Information to their respective affiliates, directors, officers, managers, members, employees, attorneys, accountants, auditors, lenders, financing sources, investment bankers, consultants, reserve engineers, operators, landmen, title examiners, brokers, insurers, potential investors, potential farmout or joint venture counterparties, regulators, stock exchanges, and other representatives or advisors who have a reasonable need to know such information for the purposes described in or contemplated by this Agreement or the transaction documents or any ancillary agreements related to or contemplated thereby; provided that the disclosing party uses commercially reasonable efforts to cause non-regulatory recipients to maintain the confidentiality of non-public Project Information.

5. **Public-Company Disclosures**. Notwithstanding anything to the contrary in this Agreement or the Confidentiality Agreement, Expion may make any disclosure, filing, press release, investor communication, auditor communication, lender communication, stock exchange communication, regulatory submission, or other disclosure that Expion determines in good faith is required or advisable under applicable securities laws, stock exchange rules, financing arrangements, auditor requirements, lender requirements, tax requirements, regulatory requirements, or self-regulatory requirements, or legal process. Expion will use commercially reasonable efforts to provide advance notice to [Seller] and [Lease Manager] to the extent legally permissible and practicable, but no consent shall be required for any such disclosure.

6. **Access to Wellsites and Records.** [Lease Manager] shall be provided with access to all lease records, wellsite information and well data acquired within the AMI by [Seller] or Expion, as well as all operational data for the [Prospect] in the possession of [Seller] or Expion, in each case, that is permitted to be disclosed by [Seller] or Expion to [Lease Manager] without the incurrence of any additional costs or fees on behalf of [Seller] or Expion (collectively the "**Well Data**"). Any access to the Well Data shall be subject to safety requirements, operator requirements and/or rules, third-party license restrictions, confidentiality obligations, and Expion's prior written approval, which shall not be unreasonably withheld. [Lease Manager] represents and warrants that any use of the Well Data shall be solely for the furtherance of the [Project]. [Lease Manager] acknowledges that the use of any Well Data by [Lease Manager], its successors, assigns, representatives or any third-party under its control, for any reason other than the furtherance of the [Project] in connection with and subject to the terms of this Agreement requires the prior written consent of Expion, which shall be granted or withheld in Expion's sole discretion. [Lease Manager] further acknowledges that failure to comply with this Section D6 with respect to the use of any Well Data is a violation of Section D23.

7. **AMI Applicability.** The AMI shall apply to oil and gas leases and unleased hydrocarbon and non-hydrocarbon mineral interests (Other Minerals) acquired by the Parties within the AMI during the Term of this Agreement.

8. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Texas without giving effect to any choice or conflict of laws rules or principles that would result in the application of the laws of another jurisdiction. Each of the Parties irrevocably and unconditionally agrees that any legal action, suit or proceeding arising out of or relating to this Agreement shall be brought exclusively in the state courts of record located in Harris County, Texas, or the United States District Court for the Southern District of Texas. Each Party hereby irrevocably submits to the exclusive personal jurisdiction of such courts in any such action, suit or proceeding and waives any objection to venue being laid in such courts.

9. **Expenses.** Except for the payment of the Earnest Money Deposit and any approved Total Lease Costs, the Parties will each pay their own transaction expenses, including the fees and expenses of attorneys and other advisors incurred in connection with the proposed transactions. In the event of any dispute arising under this Agreement, the prevailing Party shall be entitled to recover reasonable costs and expenses incurred in connection therewith, including reasonable attorneys' fees, experts' fees, court costs and related costs and expenses, solely to the extent awarded by a court or other tribunal of competent jurisdiction.

10. **Counterparts.** This Agreement may be executed in multiple counterparts, each copy of which shall serve as an original for all purposes, but all copies shall constitute but one and the same agreement.

11. **Notices.** All formal notices or communications required or permitted hereunder shall be in writing and may be sent to the respective Party (i) by a reputable courier service, (ii) by delivery in person to an officer or agent of such Party, (iii) or as otherwise agreed to in writing by the Parties. Notices shall be deemed to have been delivered (a) if sent by such reputable courier, on the 5th day after delivery by the sending Party to the courier service, or (b) if delivered in person, when delivered. All informal notices may be delivered via electronic mail.

12. **No Partnership Created.** This Agreement is not intended to create and shall not be construed to create a relationship of partnership, joint venture or an association for profit between or among the Parties. All liability hereunder shall be individual and not joint or collective.

13. **Access to Data; Answers to Questions.** In becoming a signatory Party to this Agreement, Expion acknowledges that it has had full opportunity to ask questions of and receive information from [Seller]'s and [Lease Manager]'s members and consultants regarding the [Prospect]. Nothing in this Section shall waive, limit, or release any representation, warranty, covenant, indemnity, disclosure obligation, fraud (actual, constructive, or statutory) claim, environmental claim, regulatory claim, or other right or remedy of Expion, [Seller], or Cynergy under this Agreement, the Membership Interest Purchase Agreement, the LOI, the Interest Assignment Agreement, or applicable law.

14. **Cynergy Reserved ORRI; Project Information Retention**. For the avoidance of doubt, Project Information and confidential information are not part of the property burdened by the Cynergy Reserved ORRI, and nothing in this Agreement, the Confidentiality Agreement, or any restriction on Project Information shall reduce, dilute, impair, terminate, subordinate, condition, or adversely affect the Cynergy Reserved ORRI. [Lease Manager] and Cynergy may use and retain Project Information as reasonably necessary to calculate, evidence, perfect, record, protect, and enforce the [Lease Manager] ORRI and the Cynergy Reserved ORRI.

15. **Conditions to Expion Obligations**. With respect to each lease to be obtained pursuant to this Agreement, Expion shall have no obligation to fund any lease cost, commence or fund the Mandatory Well Operation, approve any operator, or proceed with any additional performance under this Agreement unless and until Expion has received, in form and substance reasonably satisfactory to Expion, which satisfaction shall not be unreasonably withheld or delayed, complete lease files, title materials, well records, regulatory materials, seismic and technical data that [Seller] or [Lease Manager] has the right to provide, required consents, corporate approvals, evidence of authority, disclosure schedules, executed conveyance and ORRI protection instruments, and confirmation that the Cynergy Reserved ORRI has been preserved in all applicable instruments.

16. **Representations and Warranties**. Each of the Parties represents and warrants to the other that it (i) has been duly formed and is validly existing and in good standing under the laws of its jurisdiction of organization, (ii) has all requisite corporate (or limited liability company) power and authority to own, lease, and operate its properties, to carry on its business as now conducted, and to enter into, execute, deliver, and perform its obligations under this Agreement.

17. **Indemnification**. [Lease Manager] shall indemnify, defend, and hold harmless Expion, Cynergy, and their respective affiliates, officers, directors, managers, members, employees, representatives, successors, and assigns from and against any and all losses, claims, liabilities, damages, fines, penalties, costs, and expenses, including reasonable attorneys' fees, arising out of or relating to: [***].

Expion shall indemnify, defend, and hold harmless [Lease Manager], and its respective affiliates, officers, directors, managers, members, employees, representatives, successors, and assigns from and against any and all losses, claims, liabilities, damages, fines, penalties, costs, and expenses, including reasonable attorneys' fees, arising out of or relating to: [***].

18. **Expion Control of Leasing Activities**. All leasing activities, lease forms, lease bonuses, brokers, landmen, leasing budgets, target tracts, lease terms, pooling provisions, assignment language, ORRI language, and other lease-related commitments shall be subject to Expion's prior written approval as set forth in this Agreement. [Lease Manager] shall not execute, assign, amend, burden (other than with respect to the ORRIs), incur any lease related cost (that is not included in the Lease Budget), or record any lease or lease-related instrument within the AMI, unless such action is approved in writing by Expion. All recorded leases or lease-related instruments within the AMI shall preserve the applicable ORRIs.

19. **Removal and Transition of Lease Manager**. Expion may remove [Lease Manager] as Lease Manager at any time for convenience upon [***] written notice or immediately for cause, including breach of this Agreement, failure to follow Expion's written instructions, misappropriation or misuse of data, unauthorized commitments, failure to maintain confidentiality, gross negligence, willful misconduct, or any act or omission that could impair the [Prospect] or the Cynergy Reserved ORRI. Upon removal or termination, [Lease Manager] shall promptly deliver to Expion all lease files, title materials, maps, databases, reports, correspondence, contracts, work product, and other [Prospect] materials in [Lease Manager]'s possession or control, and [Lease Manager] shall have no continuing right to market the [Prospect] or receive any fee except approved and unpaid Lease Management Fees accrued that are attributable to those New Leases and Previous Leases for which [Lease Manager] submitted a complete and documented payment request to Expion on or before the effective date of termination. For the avoidance of doubt, the Parties acknowledge and agree that the [Lease Manager] ORRIs are independent of the Lease Management Fee and removal of [Lease Manager] as the Lease Manager shall not act to reduce, dilute, impair, terminate, or adversely affect any [Lease Manager] ORRIs.

20. **AFE; Operator; and Operational Control**. Expion shall have sole discretion to approve or reject any operator and any material operational decision, and Cynergy shall have no obligation to serve as operator, fund operations, assume liabilities, or provide capital, in each case unless Cynergy expressly agrees in a separate written instrument. All operational decisions and instruments shall preserve the applicable [Lease Manager] ORRI and Cynergy Reserved ORRI.

21. **Title, Environmental, and Regulatory Defects**. With respect to leases obtained pursuant this Agreement, to the extent Expion identifies any title, lease, environmental, regulatory, wellbore, surface-use, contract, tax, or other defects relating to such lease, Expion may notify [Lease Manager] of such defect. Upon notice of any such defect, [Lease Manager] will work in good faith using commercially reasonable efforts to assist Expion, at the sole cost and expense of Expion, to cure such defects.

22. **Amendments; Waivers; Ancillary Instruments**. No amendment, waiver, consent, side letter, lease form, conveyance, memorandum, assignment, or other agreement or instrument related to any leases or assets within the AMI shall be effective to impose any obligation on Expion or Cynergy, grant any right to [Lease Manager] other than the applicable [Lease Manager] ORRI, or reduce, dilute, impair, terminate, or adversely affect the Cynergy Reserved ORRI unless approved in writing by Expion and, solely with respect to the Cynergy Reserved ORRI or any obligation of Cynergy, approved in writing by Cynergy.

23. **Non-Circumvention; Non-Solicitation**. During the Term [Lease Manager] and its members, affiliates, representatives, brokers, contractors, successors, and assigns shall not, directly or indirectly, circumvent or compete with Expion or Cynergy by pursuing, acquiring, marketing, financing, leasing, developing, assigning, farming out, selling, or otherwise exploiting any [Prospect] opportunity, AMI opportunity, lease, lessor relationship, investor relationship, operator relationship, technical data, mineral title research, or other opportunity made available through the LOI, this Agreement, or the Membership Interest Purchase Agreement, except through Expion or with Expion's prior written consent. Any interest acquired in violation of this Section shall be deemed held for the benefit of Expion and shall remain subject to the applicable Cynergy Reserved ORRI.

24. **Headings**. The headings of the various sections of this Agreement have been inserted for reference only and shall not be deemed to be a part of this Agreement.

25. **[Lease Manager] Status as Independent Contractor**. In its role as Lease Manager, the Parties understand and agree that [Lease Manager] is providing the Services set forth in Section A.1. hereinabove solely as an independent contractor. [Lease Manager] shall not hold itself out as having authority to bind Expion or [Seller], and [Lease Manager] shall not incur obligations, approve costs, market the [Prospect], assign interests, or grant burdens on behalf of Expion or [Seller] unless expressly authorized in a written instrument signed by Expion and, to the extent the Cynergy Reserved ORRI may be affected, in a written instrument signed by Cynergy.

26. **Survival; Third-Party Beneficiary**. Cynergy is an express third-party beneficiary of this Agreement solely with respect to provisions affecting the Cynergy Reserved ORRI, confidentiality, access to data, assignment, notices, and any obligation that could impose liability on Cynergy. Those provisions shall survive the termination of this Agreement for so long as the [Lease Manager] ORRI and the Cynergy Reserved ORRI or any related protection remains outstanding. Except as expressly stated herein in this Section D26, nothing herein is intended or shall be construed to confer upon any person or entity other than the Parties and their successors or assigns, any rights or remedies under or by reason of this Agreement.

If you are in agreement with all of the terms and provisions of this Agreement, please indicate your agreement by signing in the space provided below.

ACCEPTED AND AGREED TO THIS 21ST DAY OF AUGUST, 2026.

BY: EXPION ENERGY, INC.

_____
Name: Joseph Hammer
Title: Chief Executive Officer and Chairman of the Board

BY: [SELLER]

By: _____
[***]

ACCEPTED AND AGREED TO THIS 21ST DAY OF AUGUST, 2026.
BY:

[LEASE MANAGER]

By: _____
[***]

Exhibit "A"
[Prospect]

Area of Mutual Interest ("AMI")

[***]

Exhibit "B"
[Prospect]

Existing Leases Owned by [Seller]

[***]

Exhibit "C"
[Prospect]

Mineral Tracts Previously Leased by Members of [Seller] Within the AMI

[***]

Exhibit "D"
[Prospect]

Form of Lease

Exhibit "E"
[Prospect]

[Well]

[***]

Exhibit 10.5

[Pursuant to Item 601(b)(10)(iv) of Regulation S-K, certain information marked with "[***]" has been omitted as it is (i) not material and (ii) is customarily and actually treated as private or confidential by the registrant.]

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (the "Agreement") is entered into as of August 21, 2026 and made effective as of August 24, 2026 (the "Effective Date"), by and between Expion Energy, Inc., a Nevada corporation with its principal place of business at 2025 SW Deerhound Avenue, Redmond, OR (the "Company"), and Kevin Sellers ("Executive").

RECITALS

WHEREAS, the Company desires to retain Executive as the Chief Executive Officer of the Company; and

WHEREAS, the Company and Executive desire to set forth the terms of Executive's employment as Chief Executive Officer.

WHEREAS, effective as of the date hereof, the Company has entered into an Exploration Agreement (the "Exploration Agreement") with [***] [("Target")], and the other parties thereto, which governs the parties' respective rights and obligations with respect to the Prospect, with the intent of facilitating the testing of the formation within the AMI (capitalized terms used and not defined herein have the meanings given to them in the Exploration Agreement).

WHEREAS, each party represents and warrants that it has the legal right, power, and authority to enter into this Agreement and to perform all of its obligations hereunder. The individual executing this Agreement on behalf of the Company represents and warrants that he or she has been duly authorized to execute and deliver this Agreement on behalf of the Company.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. **Employment**. As of the Effective Date, the Company shall employ Executive, and Executive hereby accepts such employment as the Chief Executive Officer upon the terms and conditions set forth in this Agreement. Executive will be employed as an at-will employee of the Company. Subject to the provisions of Section 5, as an at-will employee, Executive is free to terminate his employment with the Company at any time, for any reason, and the Company has the right to terminate Executive's employment at any time, for any reason. Although the Company may choose to terminate Executive's employment for Cause at any time following the Effective Date, Executive's employment is at-will and Cause is not required.

2. **Position, Duties, Authority, and Policies**.

(a) Executive Position. During Executive's employment, Executive shall serve as the Chief Executive Officer of the Company. In such position, Executive shall have such duties, functions, responsibilities and authority as shall be determined from time to time by the Company's board of directors (the "Board") consistent with Executive's position and title. Executive shall report directly to the Board. Executive shall be an executive officer of the Company and shall be subject to all Company policies relating to executive officers, including the Company's insider trading policy and all securities law reporting requirements.

(b) Board Position. Executive shall be appointed to serve on the Board effective as of the Effective Date. From time to time, Executive shall serve on such other governing bodies of the Company or its subsidiaries (the "Company Group") as may be agreed to between the Board and Executive, and may be removed from any such position (including from the Board) consistent with the terms of the Company's governing documents.

(c) Time Commitments. Executive will devote such reasonable amount of Executive's business time and best efforts to the operation and oversight of the business of the Company Group and performance of Executive's duties hereunder (excluding periods of vacation, approved time off or leave of absence) as Executive and the Board shall deem necessary for the operation of the Company's business, and will not, without the Company's prior consent (which shall not be unreasonably withheld, conditioned or delayed), (i) serve as an officer or director for, or take a management role with respect to, any other business that is directly competitive with the business of the Company as conducted from time to time, or (ii) engage in any other business activities that could conflict with Executive's duties or services to the Company Group. Nothing in this Section 2 shall limit the scope of the non-competition provisions set forth in Section 6. Executive shall be subject to the terms and conditions of the Company Group's employee policies and codes of conduct as in effect from time to time to the extent not inconsistent with this Agreement. For the sake of clarity, Executive shall be entitled to perform the Excluded Activities (as defined on **Exhibit II**) if and to the extent they do not prevent Executive from otherwise complying with the terms of this Section.

3. **Compensation**.

(a) Base Salary. During Executive's employment, the Company shall pay (or cause to be paid) to Executive a base salary ("Base Salary") at the annual rate of $285,000, payable in regular installments in accordance with the usual payment practices of the Company Group. Executive's Base Salary shall automatically increase (i) to the annual rate of $315,000 upon the timely submission of the Company's Annual Report on Form 10-K for the year ending December 31, 2026, and (ii) to $400,000 upon confirmation that the Well has achieved a production test rate of at least ten (10) MMCFEPD,

Executive's Base Salary shall be subject to increase but not decrease, as may be determined in the sole discretion of the Compensation Committee of the Board (the "Compensation Committee"). The Compensation Committee shall review Executive's total compensation (including Base Salary, Annual Bonus, and equity compensation) no less frequently than annually, taking into account peer company data, Company performance, individual performance, and such other factors as it deems appropriate. The results of such review shall be communicated to Executive in writing.

(b) Bonuses. Commencing with the fiscal year ending December 31, 2026, Executive shall be eligible to earn an annual bonus award (an "Annual Bonus") with a target amount equal to seventy-five percent (75.0%) of the Base Salary for the relevant fiscal year (prorated for the actual term of employment during 2026) (the "Target Bonus") based on the achievement of performance milestones (e.g., operational hurdles, financial conditions, etc.) established annually by the Board or the Compensation Committee, in consultation with Executive. Such performance milestones shall be established no later than September 30, 2026 for the Target Bonus to be paid in respect of 2026, and shall be established no later than March 31 of each applicable fiscal year thereafter. The actual Annual Bonus payable may be greater or less than the Target Bonus depending on the level of achievement of such performance milestones. Any Annual Bonus shall be paid to Executive, in cash, within two and one-half (2.5) months after the end of the applicable fiscal year. No Annual Bonus shall be payable in respect of any fiscal year in which Executive's employment is terminated, except to the extent provided in Section 5.

(c) Equity Awards. Upon Executive's commencement of employment, the Company shall grant Executive 50,000 restricted stock units as an inducement award pursuant to Nasdaq Listing Rule 5635(c)(4) (the "Equity Award"), which has been approved by the Compensation Committee. The Equity Award will be evidenced by an award agreement (the "Award Agreement") materially consistent with the award agreements utilized to issue awards pursuant to the Company's 2021 Incentive Award Plan (the "Plan"). The Equity Award shall vest as follows: twenty-five percent (25%) of the shares shall vest on the first (1st) anniversary of the grant date, and the remaining seventy-five percent (75%) of such shares shall vest in twelve (12) equal quarterly installments thereafter, in each case subject to Executive's continued employment through each applicable vesting date, unless otherwise provided in the applicable Award Agreement, provided, however, the Equity Award shall become fully vested immediately prior to any Change of Control (to be defined in the Equity Award and consistent with the definition in the Plan) and all forfeiture restrictions on the Equity Award shall immediately lapse. Except as otherwise provided in Section 5, the treatment of the Equity Award upon any termination of Executive's employment shall be governed exclusively by the terms of the Award Agreement. Executive shall be entitled to additional equity awards consistent with other senior executive officers on an annual or other basis as determined by the Board or an authorized committee thereof. The Equity Award will be registered with the Securities and Exchange Commission in the same registration statement on Form S-8 in which the Company registers additional shares for issuance pursuant to the Plan, and in any event shall be registered no later than December 31, 2026.

(d) Company Transaction Bonus. In the event of a Sale Transaction, the Company shall pay to Executive a cash bonus (the "Company Transaction Bonus") calculated on a marginal basis according to the following tiers applied to the Sale Consideration:

(i) zero percent (0.0%) of the portion of the Sale Consideration up to and including $20,000,000;

(ii) five percent (5.0%) of the portion of the Sale Consideration in excess of $20,000,000 up to and including $100,000,000;

(iii) four percent (4.0%) of the portion of the Sale Consideration in excess of $100,000,000 up to and including $200,000,000;

(iv) three percent (3.0%) of the portion of the Sale Consideration in excess of $200,000,000 up to and including $500,000,000; and

(v) two percent (2.0%) of the portion of the Sale Consideration in excess of $500,000,000.

For illustrative purposes, if the Sale Consideration equals $50,000,000, the Company Transaction Bonus would be calculated as follows: $0 on the first $20,000,000 (at 0.0%) plus $1,500,000 on the remaining $30,000,000 (at 5.0%), for a total Company Transaction Bonus of $1,500,000.

The Company Transaction Bonus shall be paid to Executive as follows: (x) the portion of the Company Transaction Bonus attributable to Sale Consideration actually received at the closing of the Sale Transaction in cash shall be paid within thirty (30) days following such closing; (y) the portion of the Company Transaction Bonus attributable to Sale Consideration received after the closing (e.g., earn-out payments, deferred payments, escrow releases, or other contingent amounts) shall be calculated and paid separately within thirty (30) days following actual receipt of each such payment or tranche by the Company or the stockholders of the Company, as applicable; and (z) the portion of the Company Transaction Bonus attributable to Sale Consideration initially received as non-cash consideration (including equity securities, promissory notes, real or personal property, licenses, royalty streams, or other property) shall be calculated and paid separately within thirty (30) days following the Company's receipt of cash upon the sale, transfer, disposition or payment in respect of such non-cash consideration; provided, however, that in no event shall any portion of the Company Transaction Bonus be paid later than the date that is two and one-half (2½) months following the end of the fiscal year in which the applicable Sale Consideration is actually received. Payment of the Company Transaction Bonus is contingent upon Executive's continuous employment with the Company through the closing date of the Sale Transaction, except that, notwithstanding any other provision of this Agreement, including Section 5, Executive shall remain eligible to receive the Company Transaction Bonus notwithstanding a termination of Executive's employment within twelve (12) months prior to the closing of the Sale Transaction if such termination is: (A) by the Company without Cause, as defined in Section 5(b)(ii); or (B) by Executive for Good Reason, as defined in Section 5(d)(ii), provided that, in each case, the particular Sale Transaction had been approved by the Board and substantive work had completed towards the completion of the Sale Transaction prior to the termination of Executive's employment.

(e) Definitions. For purposes of this Section:

(i) "Sale Transaction" means any transaction, arrangement, or series of related transactions or arrangements pursuant to which: (A) the Company engages in any merger, consolidation, or similar business combination (whether or not the Company is the surviving entity), and immediately following such transaction the stockholders of the Company immediately prior to such transaction cease to own at least fifty percent (50%) of the combined voting power of the Company or the surviving entity; (B) all or substantially all of the assets of the Company and its subsidiaries, taken as a whole, are sold, transferred, or otherwise disposed of (other than sales of inventory in the ordinary course of business); (C) any person or group (within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) acquires (or has acquired during the six (6)-month period ending on the date of the most recent acquisition by such person or group) beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934, as amended) of securities of the Company possessing more than fifty percent (50%) of the total combined voting power of the Company's securities outstanding immediately after such acquisition; or (D) the Company or [Target] receives proceeds from the sale, assignment, transfer, conveyance, lease, farmout, or other disposition of [Target's] assets (other than sales of inventory or equipment in the ordinary course of business). Notwithstanding the foregoing, "Sale Transaction" shall not include: (w) any transaction or series of transactions undertaken solely for the purpose of changing the Company's form of organization or the jurisdiction of its organization (including any reincorporation, conversion, or reorganization); (x) any issuance or sale of equity securities of the Company or any subsidiary for capital-raising purposes (including any public or private offering, PIPE transaction, or similar financing), provided that such transaction does not result in any person or group acquiring more than fifty percent (50%) of the combined voting power of the Company's outstanding securities; (y) any transaction solely between or among the Company and one or more of its wholly-owned subsidiaries, or solely between or among two or more wholly-owned subsidiaries of the Company, or (z) with respect to clause (D), any agreement or arrangement resulting in gross proceeds of less than $2,500,000.

(ii) "Sale Consideration" means, in the case of a Sale Transaction, the aggregate value of all consideration actually received by the Company or the stockholders of the Company, as applicable, at or following the closing of the Sale Transaction, determined as follows: (A) cash consideration shall be valued at the amount actually received; (B) earn-out payments, milestone payments, deferred payments, and other contingent consideration shall be included in Sale Consideration only when, and to the extent, actually received by the Company, or the stockholders of the Company, as applicable, and the Company Transaction Bonus attributable to any such deferred or contingent amounts shall be calculated and paid separately within thirty (30) days following actual receipt of each such payment; (C) escrow amounts, holdbacks, and other amounts subject to indemnification provisions shall be included in Sale Consideration only when, and to the extent, released to the Company, or the stockholders of the Company, as applicable; (D) the value of any non-cash consideration (including equity securities, promissory notes, real or personal property, licenses, royalty streams, or other property) shall be determined as follows: (1) publicly traded equity securities shall be valued based on the volume-weighted average trading price for the twenty (20) trading days immediately preceding the closing date; (2) royalty streams and license arrangements shall be valued based on the net present value of projected payments over the initial term, using a discount rate equal to the prime rate as published by the Wall Street Journal on the closing date plus three percent (3.0%), as determined by an independent third-party appraiser selected by the Board; (3) promissory notes shall be valued at their face amount, provided that if any such note is subsequently collected in an amount less than its face amount, the Sale Consideration shall be recalculated accordingly and any overpayment of the Company Transaction Bonus shall be promptly refunded by Executive to the Company; and (4) all other non-cash consideration (including equity in a private company, intellectual property, services, or other property) shall be valued at its fair market value as of the closing date, as determined by an independent third-party appraiser selected by the Board. All determinations under this Section shall be made by the Board in good faith.

(f) Clawback. Notwithstanding any other provision of this Agreement, any incentive-based compensation paid to Executive pursuant to this Agreement shall be subject to clawback, forfeiture, or recoupment to the extent required by applicable law (including, without limitation, the Dodd-Frank Wall Street Reform and Consumer Protection Act), applicable stock exchange listing standards, or any clawback policy adopted by the Company or the Board from time to time.

4. **Benefits.**

(a) General. During Executive's employment, Executive shall be entitled to participate in the retirement, health and welfare benefit plans, practices, policies and arrangements of the Company Group as in effect from time to time (collectively, "Employee Benefits"), on terms and conditions no less favorable than each of the Employee Benefits are made available to any other senior executive of the Company Group (other than with respect to any terms and conditions specifically determined under this Agreement, the benefits for which shall be determined instead in accordance with this Agreement). For the avoidance of doubt, no new benefit plans shall be required to be adopted in connection with Executive's appointment.

(b) Vacation. Executive shall be entitled to four (4) weeks' paid vacation pursuant to the applicable Company vacation policy, plan or regular practice, as may be modified from time to time.

(c) Reimbursement of Business Expenses. During Executive's employment, the Company shall reimburse Executive for reasonable business expenses incurred by Executive in the performance of Executive's duties hereunder in accordance with its then-prevailing business expense policy (which shall include appropriate itemization and substantiation of expenses incurred); provided that reimbursement for travel expenses incurred by Executive in the performance of Executive's duties hereunder shall be made in accordance with the travel policy of the Company, which, with respect to Executive, shall be consistent with the travel policy in effect for Executive as of immediately prior to the Effective Date. The Company shall reimburse Executive within fifteen (15) days of submitting an invoice for any such costs and expenses. Executive shall be entitled to the perquisites set forth on **Exhibit I**.

5. **Termination**.

(a) General. Executive's employment hereunder may be terminated by either party at any time and in the manner set forth in this Section 5; provided that if Executive resigns for any reason other than Good Reason (as defined below) Executive shall give the Company at least sixty (60) days' advance written notice (the "Notice Period") of such termination. The provisions of this Section 5 shall exclusively govern Executive's rights upon termination of employment with Company, provided that (i) the potential for Executive to receive a Company Transaction Bonus shall be governed by Section 3, and (ii) Executive's rights under any equity plan, equity incentive award agreement or other employee benefit plan that provides for rights (other than severance payments) upon termination of employment shall, in each case, be governed exclusively by such plan or agreement, as applicable.

(b) By the Company for Cause or by Executive without Good Reason.

(i) Executive's employment hereunder (A) may be terminated by the Company for Cause (as defined below) with immediate effect and (B) shall terminate automatically upon the effective date (following the Notice Period) of Executive's resignation for any reason other than Good Reason.

(ii) For purposes of this Agreement, "Cause" shall mean (A) any willful act or omission that constitutes a material breach by Executive of any of Executive's material obligations under this Agreement; (B) the willful and continued failure or refusal of Executive to substantially perform the material duties reasonably required of Executive as an employee of the Company Group; (C) Executive's commission or conviction of, or plea of guilty or nolo contendere to: (1) a felony, or (2) a crime involving fraud or moral turpitude (or any other crime relating to the Company Group which would reasonably be expected to be materially injurious to the Company Group); provided that if the Company terminates Executive's employment and withholds payments or benefits to Executive on the assertion that Executive committed a felony or crime described in this clause and Executive is subsequently acquitted of such felony or crime, then the Company shall promptly pay to Executive an amount sufficient to restore Executive to the same economic position Executive would have been in had Executive's termination of employment been without Cause (including by paying an amount in severance that Executive would have been entitled to under this Agreement); (D) Executive's willful theft, dishonesty or other misconduct that would reasonably be expected to be injurious to the Company Group; (E) Executive's willful and unauthorized use, misappropriation, destruction or diversion of any material or intangible asset of the Company Group (including, without limitation, Executive's willful and unauthorized use or disclosure of the Company Group's confidential or proprietary information) that would reasonably be expected to be materially injurious to the Company Group; (F) any violation by Executive of any law regarding employment discrimination or sexual harassment that would reasonably be expected to be materially injurious to the Company Group; provided that a termination of Executive's employment for Cause that is susceptible to cure shall not be effective unless the Company first gives Executive written notice of its intention to terminate and the grounds for such termination, and Executive has not, within thirty (30) days following receipt of such notice, cured such Cause.

(iii) If Executive's employment is terminated by the Company for Cause, Executive shall be entitled to receive:

(A) the Base Salary through the date of termination;

(B) reimbursement, within thirty (30) days following receipt by the Company of Executive's claim for such reimbursement (including appropriate supporting documentation), for any unreimbursed business expenses properly incurred by Executive in accordance with Company policy prior to Executive's termination; provided that such claims for such reimbursement are submitted to the Company within ninety (90) days following the date of Executive's termination of employment; and

(C) such Employee Benefits (other than with respect to severance benefits), if any, to which Executive may be entitled, payable in accordance with the terms and conditions of the Company's equity plans or other Company plans, program and policies (the amounts described in clauses (A) through (C) hereof being referred to as the "Accrued Rights").

Following such termination of Executive's employment by the Company for Cause, except as set forth in this Section 5(b)(iii), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(iv) If Executive resigns for any reason other than Good Reason, provided that Executive will be required to comply with the Notice Period requirement in Section 5(a), Executive shall be entitled to receive the Accrued Rights and shall have no further rights to compensation or any other benefits under this Agreement. During the Notice Period, and subject to the following sentence, Executive shall continue to perform Executive's duties and obligations under Section 2 hereto as reasonably requested by the Company, and shall receive the Base Salary and Employee Benefits. In lieu of all or any portion of the Notice Period, the Company, at its sole election, may elect to pay to Executive the Base Salary in lieu of notice (in which case, Executive's employment shall terminate on the date elected by the Company) or the Company may elect to place Executive on "garden leave" during the Notice Period (such period, if elected, the "Garden Leave Period"). If such Garden Leave Period is elected by the Company, then during the Garden Leave Period, Executive shall (A) remain an employee of the Company but not be required to perform any duties for the Company or attend work and (B) be eligible for continued Base Salary and medical and other employee benefits, but no other compensation, including no incentive compensation or continued vesting in equity incentives or other awards during the Garden Leave Period. Following such resignation by Executive for any reason other than Good Reason, except as set forth in this Section 5(b)(iv), Executive shall have no further compensation or any other benefits under this Agreement.

(c) Disability or Death.

(i) Executive's employment hereunder shall terminate automatically on Executive's death. In the event of Executive's Disability (as defined below), the Company shall be entitled to terminate Executive's employment hereunder. During any period that Executive is unable to perform Executive's duties hereunder as a result of a disability prior to the termination of Executive's employment for Disability, Executive shall continue to receive Executive's full Base Salary set forth in Section 3(a) and Employee Benefits set forth in Section 4(a) until Executive's employment is terminated pursuant to this Section 5(c)(i). For purposes of this Agreement, "Disability" shall mean any medically determinable physical or mental impairment resulting in Executive's inability to engage in any substantial gainful activity, where such impairment can be expected to result in death or can be expected to last for a continuous period of inability to engage in any substantial gainful activity of not less than twelve (12) months.

(ii) Upon termination of Executive's employment hereunder as a result of Executive's death or by the Company at a time when Executive has a Disability, Executive or Executive's estate, survivors or beneficiaries (as the case may be) shall be entitled to receive:

(A) the Accrued Rights;

(B) any Annual Bonus earned, but unpaid, as of the date of termination, paid in accordance with Section 3(b) (except to the extent payment is otherwise deferred pursuant to any applicable deferred compensation arrangement with the Company, in which case such payment shall be made in accordance with the terms and conditions of such deferred compensation arrangement);

(C) any Company Transaction Bonus on any Sale Transaction earned, but unpaid, as of the date of termination; and

(D) subject to Executive's continued compliance in all material respects with Section 6 and Section 7 hereof and the execution and non-revocation of a general release of claims in a form approved by the Company (the "Release") in accordance with Section 5(e) by Executive or Executive's estate, survivors or beneficiaries (as the case may be), a pro-rated portion of Executive's Annual Bonus for the fiscal year in which such termination occurs, determined by multiplying the actual Annual Bonus Executive would have earned absent Executive's termination of employment based on the achievement of the actual performance objectives and targets for such fiscal year, by a fraction, (x) the numerator of which equals the number of days during such fiscal year that Executive was employed by the Company up to and including the date of termination of Executive's employment and (y) the denominator of which is the number of days in such fiscal year, paid in accordance with Section 3(b).

Following such termination of Executive's employment hereunder as a result of Executive's death or by the Company at a time when Executive has a Disability, except as set forth in this Section 5(c)(ii), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(d) By the Company Without Cause (other than by reason of death or Disability) or Resignation by Executive for Good Reason.

(i) If Executive's employment is terminated by the Company without Cause (other than as described in Section 5(c)) or by Executive for Good Reason, Executive shall be entitled to receive:

(A) the Accrued Rights;

(B) any Annual Bonus earned, but unpaid, as of the date of termination, paid in accordance with Section 3(b) (except to the extent payment is otherwise deferred pursuant to any applicable deferred compensation arrangement with the Company, in which case such payment shall be made in accordance with the terms and conditions of such deferred compensation arrangement)

(C) any Company Transaction Bonus on any Sale Transaction earned, but unpaid, as of the date of termination, and any Company Transaction Bonus on any Sale Transaction that occurs within the twelve (12) months following the date of termination provided the conditions in Section 3(d) are satisfied; and

(D) subject to Executive's continued compliance in all material respects with Section 6 and Section 7 hereof, and the execution and non-revocation of the Release in accordance with Section 5(e) by Executive, the Company shall pay Executive (1) an amount equal to twelve (12) months of Executive's then-current Base Salary, payable in the form of salary continuation in regular installments over the twelve (12)-month period commencing on the date of termination in accordance with the Company's normal payroll practices provided that the first such installment shall be paid on the first regularly scheduled payroll date of the Company following the date the Release becomes effective and irrevocable and shall include in a lump sum all amounts that were otherwise payable to Executive from the date of termination through the date of such first payment; (2) an amount equal to the Annual Bonus for the year of termination of employment, payable in a single lump sum cash payment on the first regularly scheduled payroll date of the Company following the date the Release becomes effective and irrevocable; and (3) if Executive elects continuation of Executive's medical and dental coverage under COBRA, Executive's coverage and participation under the Company Group's medical and dental benefit plans in which Executive was participating immediately prior to termination of employment pursuant to this Section 5(d)(i) (collectively, the "Medical and Dental Benefits") shall continue at the same cost to Executive as the cost for the Medical and Dental Benefits immediately prior to such termination until the earlier of (i) the twelve (12)-month anniversary of the date of termination or (ii) the date on which Executive becomes eligible for medical and/or dental coverage from Executive's subsequent employer (it being understood such continuation of coverage may be made by paying Executive a series of monthly installment payments sufficient, after payment of federal and local income taxes, to pay Executive's applicable monthly COBRA premium). Executive may choose to continue Medical and Dental Benefits under COBRA at Executive's own expense for the balance, if any, of the period required by law.

Following such termination of employment without Cause by the Company or a resignation by Executive for Good Reason, except as set forth in this Section 5(d)(i), Executive shall have no further rights to any compensation or any other benefits under this Agreement.

(ii) For purposes of this Agreement, "Good Reason" shall mean any of the following (without Executive's consent): (A) a 15% or greater decrease in Executive's Base Salary or Annual Bonus; (B) a material diminution of the title, responsibilities or authority of Executive; (C) any member of the Company Group's requiring Executive to be based at any office or location that is inconsistent with the terms of this Agreement or other understanding with the Company, so long as Executive's actual work location(s) are reasonably appropriate (after reasonably taking into account Executive's past practice as an employee of the Company prior to the Effective Date), given Executive's duties and responsibilities and the needs of the Company Group; or (D) a material breach by the Company of this Agreement; provided that no event or condition described in clauses (A)-(D) above will constitute Good Reason unless (x) Executive gives the Board written notice of such event or condition giving rise to Good Reason within thirty (30) days after Executive first learns of such event or condition, (y) the Company fails to cure such event or condition within thirty (30) days after receipt of such notice and (z) Executive resigns from employment within thirty (30) days following the expiration of such cure period.

(e) Release. Amounts payable to Executive under Section 5(c)(ii)(C) and Section 5(d)(i)(C) (collectively, the "Conditioned Benefits") are subject to (A) Executive's or Executive's estate, survivors or beneficiaries (as the case may be) execution and non-revocation of the Release and (B) the expiration of any revocation period contained in such Release, in each case within sixty (60) days following the date of termination. Further, to the extent that any of the Conditioned Benefits constitutes "nonqualified deferred compensation" for purposes of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and the sixty (60)-day period following the date of termination begins in one calendar year and ends in a second calendar year, any payment of any amount or provision of any benefit otherwise scheduled to occur prior to the sixtieth (60th) day following the date of Executive's termination of employment hereunder, but for the condition on executing the Release as set forth herein, shall not be made until the first regularly scheduled payroll date following such 60th day (regardless of when the Release is delivered), after which any remaining Conditioned Benefits shall thereafter be provided to Executive according to the applicable provision set forth herein.

(f) Survivability. The provisions of Section 5, Section 6, Section 7, Section 8 and Section 9 of this Agreement shall survive any termination of this Agreement or Executive's termination of employment hereunder.

(g) Notice of Termination; Board/Committee Resignation. Any purported termination of employment by the Company or by Executive (other than due to Executive's death) pursuant to this Section 5 shall be communicated by a written Notice of Termination (as defined below) to the other party hereto. For purposes of this Agreement, a "Notice of Termination" shall mean a notice that shall indicate the specific termination provision in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of employment under the provision so indicated. Upon termination of Executive's employment for any reason, at the request of the Company, Executive agrees to resign, as of the date of such termination and to the extent applicable, from the Board (and any committees thereof), and the Board or comparable governing bodies (and any committees thereof) of any other Company Group member.

6. **Non-Competition; Non-Solicitation**. Executive acknowledges and recognizes the highly competitive nature of the businesses of the Company Group and further acknowledges and recognizes that Executive has received, and will receive, Confidential Information (as defined below) and trade secrets of the Company Group, and accordingly agrees as follows:

(a) Non-Competition.

(i) For a period of twelve (12) months after Executive's termination of employment with the Company Group (the "Restricted Period"), Executive will not, whether on Executive's own behalf or on behalf of or in conjunction with any person, firm, partnership, joint venture, association, corporation or business organization, entity or enterprise whatsoever ("Person"), directly or indirectly solicit or assist in soliciting in competition with the Company Group the business of any then current or prospective client or customer of the Company in a Competing Business with whom Executive had personal contact or dealings on behalf of the Company during the twelve (12)-month period preceding Executive's termination of employment.

(ii) During the Restricted Period, Executive will not directly or indirectly:

(A) actively engage in any business activities involving any lithium-based battery or storage system for any commercial use (a "Competing Business"), individually or through an entity, as an employee, director, officer, owner, investor, partner, member, consultant, contractor, agent, joint venture, or otherwise, in any geographical area where any member of the Company Group engages in such Competing Business;

(B) acquire a financial interest in, or otherwise become actively involved with, any Competing Business, directly or indirectly, as an individual, partner, shareholder, officer, director, principal, agent, trustee or consultant; or

(C) interfere with, or attempt to interfere with, business relationships (whether formed before, on or after the date of this Agreement) between the members of the Company Group and any of their clients, customers, suppliers, partners, members or investors in a Competing Business.

(iii) During the Restricted Period, Executive will not, directly or indirectly, circumvent or compete with Company Group by pursuing, acquiring, marketing, financing, leasing, developing, assigning, farming out, selling, or otherwise exploiting the [Prospect] or the AMI opportunity, lease, lessor relationship, investor relationship, operator relationship, technical data, mineral title research, or other opportunity made available through the Company's dealings with Executive or Cynergy Advisors LLC ("Cynergy"), except by acting through the Company Group or with the Board's prior written consent thereof. Any interest acquired in violation of this Section shall be deemed held for the benefit of the Company.

(iv) Notwithstanding anything to the contrary in this Agreement, Executive may, directly or indirectly, as principal, investment manager or otherwise, own or advise as to ownership, solely as an investment, securities of a Competing Business which is publicly traded on a national or regional stock exchange or on the over-the-counter-market if Executive does not, directly or indirectly, own 5% or more of the outstanding capital stock of such Person.

(b) Employee Non-Solicitation. During the Restricted Period, Executive will not, whether on Executive's own behalf or on behalf or in conjunction with any Person, directly or indirectly:

(i) solicit or encourage any employee of the Company Group in a Competing Business to leave the employment of the Company Group;

(ii) hire or solicit for employment any employee who was employed by the Company Group in a Competing Business as of the date of Executive's termination of employment with the Company Group for any reason or who left the employment of the Company Group coincident with, or within one (1) year prior to, the date of Executive's termination of employment with the Company Group for any reason; provided that this subclause (ii) shall not prohibit Executive from making a general employment advertisement which does not directly target any employee of the Company Group so long as no such employees are hired after responding to such general employment advertising; or

(iii) encourage any material consultant of the Company Group in a Competing Business to cease working with the Company Group.

(c) Excluded Activities. Notwithstanding anything to the contrary in this Section 6, the Company acknowledges that Executive serves as a principal of Cynergy and, in Executive's role as such, oversees investments in entities that may be competitive with the Company in geographies outside of the AMI. Nothing in this Section 6 shall restrict Executive's activities with Cynergy; provided, however, that neither Executive nor Cynergy (nor any representative, affiliate, or agent of Cynergy) shall, directly or indirectly, pursue, acquire, market, finance, lease, develop, assign, farm out, sell, or otherwise exploit the [Prospect], the AMI opportunity, or any other opportunity restricted under Section 6(a)(iii).

(d) Non-Disparagement. During Executive's employment and following termination of employment for any reason (i) Executive agrees not to make, or direct any other Person to make, any Disparaging Statement (as defined below) about the Company Group (or any of their respective officers or directors) (it being understood that comments made in Executive's good faith performance of Executive's duties hereunder shall not be deemed disparaging or defamatory for purposes of this Agreement), and (ii) the Company shall instruct the members of the Board not to make, or direct any other Person to make, any Disparaging Statement about Executive. In addition, following the termination of Executive's employment with the Company Group for any reason, the Company shall instruct the members of the Company Group's management team and any other individual who is authorized to make any public statement on behalf of the Company Group not to make, or direct any other Person to make, any Disparaging Statement about Executive. For purposes of this Agreement, a "Disparaging Statement" shall mean any communication that is intended to defame or disparage, or has the effect of defaming or disparaging.

(e) Blue Pencil. It is expressly understood and agreed that although Executive and the Company consider the restrictions contained in this Section 6 to be reasonable and necessary to protect the Company's legitimate business interests and to be in consideration of Executive's significant equity interests in the Company and the Company's grant of equity interests to Executive, if a final judicial determination is made by a court of competent jurisdiction that the time or territory or any other restriction contained in this Agreement is an unenforceable restriction against Executive, the provisions of this Agreement shall not be rendered void but shall be deemed amended to apply as to maximum time and territory and to such maximum extent as such court may judicially determine or indicate to be enforceable. Alternatively, if any court of competent jurisdiction finds that any restriction contained in this Agreement is unenforceable, and such restriction cannot be amended to make it enforceable, such finding shall not affect the enforceability of any of the other restrictions contained herein.

(f) Extension of Restricted Period. The period of time during which the provisions of this Section 6 shall be in effect shall be extended by the length of time during which Executive is in breach of the terms hereof as determined by any court of competent jurisdiction on the Company's application for injunctive relief.

7. **Confidentiality; Intellectual Property**.

(a) Confidentiality.

(i) Executive will not at any time (whether during or after Executive's employment with the Company), (x) retain; or (y) disclose, divulge, reveal, communicate, share, transfer or provide access to any Person outside any Company Group member (other than (A) Executive's professional advisers who are bound by confidentiality obligations, (B) in performance of Executive's duties under Executive's employment pursuant to customary industry practice, (C) in connection with any litigation proceedings for enforcement by Executive of Executive's rights under this Agreement and (D) to Executive's representatives who have a need to know such information for tax or financial reporting reasons), any non-public, proprietary or confidential information (in any form or medium, including text, digital or electronic) including, without limitation, trade secrets, know-how, research and development, software, databases, inventions, processes, formulae, technology, designs and other intellectual property, information concerning finances, investments, profits, pricing, costs, products, services, vendors, customers, clients, partners, investors, personnel, compensation, recruiting, training, advertising, sales, marketing, promotions, government and regulatory activities and approvals (in any form or medium, tangible or intangible) concerning the past, current or future business, activities and operations of any Company Group member and/or any third party that has disclosed or provided any of same to any Company Group member on a confidential basis (collectively, "Confidential Information") without the prior written authorization of the Board. Executive will not at any time (whether during or after Executive's employment with the Company Group) use any Confidential Information for the benefit, purposes or account of Executive or any other Person, other than in the performance of Executive's duties under this Agreement.

(ii) "Confidential Information" shall not include any information that is (A) generally known to the industry or the public other than as a result of Executive's breach of this covenant; (B) made available to Executive by a third party without breach of any confidentiality or other wrongful act of which Executive has knowledge; (C) known to or in the possession of Executive or Cynergy prior to the Company developing or coming into possession of such information; or (D) required by law to be disclosed; provided that with respect to subsection (D) Executive shall (to the extent legally permissible and reasonably practicable) give prompt written notice to the Company of such requirement, disclose no more information than is required, and reasonably cooperate with any attempts by any Company Group member to obtain a protective order or similar treatment; or (E) permitted to be disclosed pursuant to any organizational document of the Company Group.

(iii) Except as required by law, Executive will not disclose to anyone, other than Executive's family (it being understood that, in this Agreement, the term "family" refers to Executive, Executive's spouse, spouse equivalent, children, parents, spouse's parents and spouse equivalent's parents) and advisors, the existence or contents of this Agreement; provided that Executive may disclose to any prospective future employer the provisions of Section 6 and Section 7 of this Agreement and, may disclose the existence or contents of this Agreement in connection with any litigation proceedings for enforcement by Executive of Executive's rights under this Agreement (provided that, in connection with any such litigation or proceedings not involving the Company Group or any of their Affiliates, Executive shall (to the extent legally permissible and reasonably practicable) disclose no more information than is required). This Section 7(a)(iii) shall terminate if the Company publicly discloses a copy of this Agreement (or, if the Company publicly discloses summaries or excerpts of this Agreement, to the extent so disclosed).

(iv) Upon termination of Executive's employment with the Company for any reason, Executive shall, upon the Company's request, promptly destroy, delete, or return to the Company, at the Company's option, all originals and copies in any form or medium (including memoranda, books, papers, plans, computer files, letters and other data) in Executive's possession or control (including any of the foregoing stored or located in Executive's office, home, laptop or other computer, whether or not Company property) that contain Confidential Information, except that Executive may retain only those portions of any personal notes, notebooks and diaries that do not contain any Confidential Information and nothing herein shall require Executive to destroy any computer records or files containing Confidential Information which Executive required to maintain pursuant to applicable law or in connection with any litigation proceedings for enforcement by Executive of Executive's rights under this Agreement; provided that the provisions of this Agreement will continue to apply to such Confidential Information.

(v) Nothing in this Agreement shall prohibit or impede Executive from communicating, cooperating or filing a complaint with the U.S. federal, state or local governmental or law enforcement branch, agency or entity (or similar bodies of relevant foreign jurisdictions) (collectively, a "Governmental Entity") with respect to possible violations of any applicable law or regulation, or from otherwise making disclosures to any Governmental Entity that are protected under the whistleblower provisions of any such law or regulation; provided that in each case such communications and disclosures are consistent with applicable law, and nothing shall preclude Executive's right to receive an award from a Governmental Entity for information provided under any whistleblower program. Executive does not need the prior authorization of (or to give notice to) the Company regarding any such communication or disclosure.

(vi) Pursuant to the Defend Trade Secrets Act of 2016, the Company and Executive hereby confirm, understand and acknowledge that Executive shall not be held criminally or civilly liable under any applicable federal or state trade secret law for the disclosure of a trade secret that is made (A) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney, in each case solely for the purpose of reporting or investigating a suspected violation of law, or (B) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. The Company and Executive hereby confirm, understand and acknowledge further that if Executive files a lawsuit for retaliation by an employee or for reporting a suspected violation of law, Executive may disclose the trade secret to Executive's attorney and use the trade secret information in the court proceeding, if Executive (x) files any document containing the trade secret under seal and (y) does not disclose the trade secret, except pursuant to court order. Moreover, Executive does not need the prior authorization of (or to give notice to) the Company regarding any such communication or disclosure. Except as required by applicable law, under no circumstance will Executive be authorized to disclose any information covered by attorney-client privilege or attorney work product of the Company, without prior written consent of the Company's General Counsel or other officer designated by the Company.

(b) Intellectual Property.

(i) If Executive creates, invents, designs, develops, contributes to or improves any works of authorship, inventions, concepts, intellectual property, materials, trademarks or similar rights, documents or other work product (including without limitation, research, reports, software, algorithms, techniques, databases, systems, applications, presentations, textual works, content, improvements, or audiovisual materials), whether or not patentable or registrable under patent, trademark, copyright or similar laws (collectively, "Works"), either alone or with third parties, at any time during Executive's employment by the Company Group members and within the scope of such employment and/or with the use of any resources of any Company Group member or their respective Affiliates, such Works shall be "Company Group Works" (it being understood that, notwithstanding anything herein to the contrary, in no event shall Executive's name, likeness, image or any other rights of publicity be considered Company Group Works). Executive agrees that all such Company Group Works shall, as between the parties hereto, be the sole and exclusive property and intellectual property of the Company. Notwithstanding the foregoing, Executive hereby irrevocably assigns, transfers and conveys (and agrees to so assign, transfer and convey), to the maximum extent permitted by applicable law, all of Executive's right, title, and interest therein (including rights under patent, industrial property, copyright, trademark, trade secret, unfair competition, other intellectual property laws, and related laws) to the Company Group members to the extent ownership of any such rights does not vest originally in such Company Group members whether as a "work made for hire" or by virtue of the prior sentence. If Executive creates any written records (in the form of notes, sketches, drawings, or any other tangible form or media) of any Company Group Works such records will remain, as between the parties hereto, the sole property and intellectual property of the Company Group at all times. For clarity, any activities (A) using Executive's name, likeness, image or any other rights of publicity, to the extent such activities would not otherwise be prohibited by Section 6 of the Agreement and are outside of the ordinary course of business of the Company Group, as such business exists now or at any time in the future, or (B) that are otherwise approved by the Board (which approval shall not be unreasonably withheld, conditioned or delayed) shall not be considered within the scope of Executive's employment for the purposes of this Section 7.

(ii) Executive shall take all reasonably requested actions and execute all reasonably requested documents (including any licenses or assignments required by a government contract) at the expense of any Company Group member (but without further remuneration) to assist the applicable Company Group member or its affiliates in validating, maintaining, protecting, enforcing, perfecting, recording, patenting or registering any of the Company Group members' rights in the Company Group Works. Executive hereby designates and appoints the Company and its designees as Executive's agent and attorney-in-fact, to act for and in Executive's behalf and stead solely to the extent necessary to execute and file such documents and solely to the extent Executive is unable or unwilling to do so. This power of attorney is coupled with an interest and is irrevocable. Executive shall not knowingly take any actions inconsistent with the Company's ownership rights set forth in this Section 7, including by filing to register any Company Group Works in Executive's own name.

(iii) Executive shall not improperly use for the benefit of, bring to any premises of, divulge, disclose, communicate, reveal, transfer or provide access to, or share with any Company Group member or their respective Affiliates any confidential, proprietary or non-public information or intellectual property relating to a former employer or other third party without the prior written permission of such third party. Executive shall comply with all relevant policies and guidelines of the Company Group that are from time to time previously disclosed to Executive, including regarding the protection of Confidential Information and intellectual property and potential conflicts of interest.

(iv) Executive has listed on the attached **Exhibit III** Works that are owned by Executive, in whole or jointly with others prior to Executive's employment with the Company (such Works, together with any other Works owned by Executive in whole or jointly with others prior to Executive's employment with the Company Group, collectively, "Prior Works"). Executive shall not use any Prior Work in connection with Executive's employment with the Company Group without prior written consent of the Company. If, in connection with Executive's employment with the Company, Executive incorporates into any Company product, service or process any Prior Work (or any portion of a Prior Work), in any manner whatsoever, Executive grants the Company a non-exclusive, perpetual (or the maximum time period allowed by applicable law), sub-licensable, assignable, royalty-free right and worldwide license to use, modify, reproduce, reduce to practice, market, distribute, communicate and/or sell such Prior Work or portion of such Prior Work solely to the extent necessary for the Company to exploit such Company product, service or process. The Company, on behalf of itself and the other members of the Company Group, agrees that any and all Prior Works shall, as between the parties hereto, be and remain the sole and exclusive property and intellectual property of Executive. For the avoidance of doubt, notwithstanding anything herein to the contrary, in no event shall any Prior Works (or any portion thereof) be considered "Confidential Information" under this Agreement.

8. **Specific Performance**. Executive acknowledges and agrees that the remedies of the Company Group at law for a breach or threatened breach of any of the provisions of Section 6 and Section 7 of this Agreement would be inadequate and the Company Group would suffer irreparable damages as a result of such breach or threatened breach. In recognition of this fact, Executive agrees that, in the event of such a material breach, in addition to any remedies at law, any member of the Company Group, without posting any bond, shall be entitled, in addition to any other remedy available at law or equity, to cease making any payments or providing any benefit otherwise required by this Agreement, and may be entitled to obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction or any other equitable remedy which may then be available. Any determination as to whether Executive is in compliance with Section 6 and Section 7 hereof shall be determined without regard to whether the Company Group could obtain an injunction or other equitable relief under the law of any particular jurisdiction.

9. **Miscellaneous**.

(a) Indemnification; Directors' and Officers' Insurance. The Company shall indemnify and hold Executive harmless from and against any and all liabilities, obligations, losses, damages, fines, taxes and interest and penalties thereon (other than taxes based on fees or other compensation received by Executive from the Company), claims, demands, actions, suits, proceedings (whether civil, criminal, administrative, investigative or otherwise), costs, expenses and disbursements (including reasonable and documented legal and accounting fees and expenses, costs of investigation and sums paid in settlement) of any kind or nature whatsoever (collectively, "Claims and Expenses"), which may be imposed on, incurred by or asserted at any time against Executive that arises out of or relates to Executive's service as an officer, director or employee, as the case may be, of any Company Group member, or Executive's service in any such capacity or similar capacity with an affiliate of the Company Group or other entity at the request of the Company Group; provided that Executive shall not be entitled to indemnification hereunder against any Claims or Expenses that are finally determined by a court of competent jurisdiction to have resulted from any act or omission that (i) is a criminal act by Executive or (ii) constitutes fraud or willful misconduct by Executive. Costs and expenses incurred by Executive in defense of such Proceeding (including attorneys' fees) shall be paid by the Company in advance of the final disposition of such litigation upon receipt by the Company of: (i) a written request for payment; and (ii) appropriate documentation evidencing the incurrence, amount, and nature of the costs and expenses for which payment is being sought. Executive shall have the right to approve defense counsel selected by the Company, such approval not to be unreasonably withheld. No settlement of any claim shall be made without Executive's prior written consent if such settlement would impose any liability or obligation on Executive or would not include an unconditional release of Executive. The Company shall maintain directors' and officers' liability insurance providing coverage to Executive on terms and in amounts no less favorable than the coverage provided to other directors and officers of the Company. The Company shall not materially reduce or cancel such coverage without providing Executive at least thirty (30) days' prior written notice. The Company shall maintain a tail policy for a period of not less than four (4) years following Executive's termination of employment.

(b) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of laws principles thereof that would direct the application of the law of any other jurisdiction.

(c) Jurisdiction; Venue. Each of the parties hereto irrevocably submits to the exclusive jurisdiction of any federal or state court sitting in the State of Texas over any suit, action or proceeding arising out of or relating to this Agreement and each of the parties agrees that any action relating in any way to this Agreement must be commenced only in the federal or state courts of Bexar County, Texas. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted or not prohibited by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in such a court and any claim that any such suit, action or proceeding brought in such a court has been brought in an inconvenient forum. Each of the parties hereto hereby irrevocably consents to the service of process in any suit, action or proceeding by sending the same by certified mail, return receipt requested, or by recognized overnight courier service, to the address of such party set forth in Section 9(i).

(d) Entire Agreement; Amendments. This Agreement (including, without limitation, the exhibits attached hereto) contains the entire understanding of the parties with respect to the employment of Executive by any member of the Company Group, and supersedes all prior agreements and understandings between Executive and any member of the Company Group regarding the terms and conditions of Executive's employment with the Company Group, with the exception of any applicable prior invention assignment or the protections that exist under the terms of any applicable long term incentive plan (or any earned compensation, including under any retirement or deferred compensation plans), the Company's 2021 Incentive Stock Plan and any other equity, option or warrant plan entered into between the Company and Executive. In addition, if the Company Group is a party to one or more agreements with Executive related to the matters subject to Section 6 and Section 7, such other agreement(s) shall remain in full force and effect and continue in addition to this Agreement, including, without limitation, any covenants pertaining to confidentiality, nondisclosure, non-competition, non-solicitation and non-disparagement applicable to Executive. There are no restrictions, agreements, promises, warranties, covenants or undertakings between the parties with respect to the subject matter herein other than those expressly set forth herein. This Agreement (including, without limitation, the exhibits attached hereto) may not be altered, modified, or amended except by written instrument signed by the parties hereto.

(e) No Waiver. The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

(f) Severability. In the event that any one or more of the provisions of this Agreement shall be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

(g) Assignment. This Agreement and all of Executive's rights and duties hereunder shall not be assignable or delegable by Executive. Any purported assignment or delegation by Executive in violation of the foregoing shall be null and void ab initio and of no force and effect. This Agreement shall automatically be assigned by the Company to a person or entity which is a successor in interest ("Successor") to all or substantially all of the then-business operations of the Company. Upon such assignment, the rights and obligations of the Company hereunder shall become the rights and obligations of such Successor.

(h) Compliance with Code Section 409A.

(i) The intent of the parties is that payments and benefits under this Agreement comply with or be exempt from Code Section 409A and the regulations and guidance issued thereunder ("Section 409A") and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted to be in compliance therewith. If any provision of this Agreement (or of any award of compensation, including equity compensation or benefits) would cause Executive to incur any additional tax or interest under Section 409A, the Company shall, after consulting with and receiving the approval of Executive, reform such provision in a manner intended to avoid the incurrence by Executive of any such additional tax or interest.

(ii) A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits that are considered nonqualified deferred compensation under Section 409A upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Section 409A, and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." The determination of whether and when a separation from service has occurred for purposes of this Agreement shall be made in accordance with the presumptions set forth in Section 1.409A-1(h) of the Treasury Regulations.

(iii) Any provision of this Agreement to the contrary notwithstanding, if at the time of Executive's separation from service, the Company determines that Executive is a "specified employee," within the meaning of Section 409A, then to the extent any payment or benefit that Executive becomes entitled to under this Agreement on account of such separation from service would be considered nonqualified deferred compensation under Section 409A, such payment or benefit shall be paid or provided at the date which is the earlier of (A) six (6) months and one (1) day after such separation from service and (B) the date of Executive's death (the "Delay Period"). Upon the expiration of the Delay Period, all payments and benefits delayed pursuant to this Section 9(h) (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or provided to Executive in a lump-sum, and any remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified herein.

(iv) Any reimbursements and in-kind benefits provided under this Agreement that constitute deferred compensation within the meaning of Section 409A shall be made or provided in accordance with the requirements of Section 409A, including that (A) in no event shall any fees, expenses or other amounts eligible to be reimbursed by the Company under this Agreement be paid later than the last day of the calendar year that follows the calendar year in which the applicable fees, expenses or other amounts were incurred; (B) the amount of expenses eligible for reimbursement, or in kind benefits that the Company is obligated to pay or provide, in any given calendar year shall not affect the expenses that the Company is obligated to reimburse, or the in-kind benefits that the Company is obligated to pay or provide, in any other calendar year, provided that the foregoing clause (B) shall not be violated with regard to expenses reimbursed under any arrangement covered by Code Section 105(b) solely because such expenses are subject to a limit related to the period the arrangement is in effect; and (C) Executive's right to have the Company pay or provide such reimbursements and in-kind benefits may not be liquidated or exchanged for any other benefit.

(v) For purposes of Section 409A, Executive's right to receive any installment payments shall be treated as a right to receive a series of separate and distinct payments. Whenever a payment under this Agreement specifies a payment period with reference to a number of days (for example, "payment shall be made within thirty (30) days following the date of termination"), the actual date of payment within the specified period shall be within the sole discretion of the Company. In no event may Executive, directly or indirectly, designate the calendar year of any payment to be made under this Agreement, to the extent such payment is subject to Section 409A.

(i) Notice. For the purpose of this Agreement, notices and all other communications provided for in the Agreement shall be in writing and shall be deemed to have been duly given when delivered by hand or overnight courier or three days after it has been mailed by United States registered mail, return receipt requested, postage prepaid, addressed to the respective addresses set forth below in this Agreement, or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notice of change of address shall be effective only upon receipt.

If to the Company:

Expion Energy, Inc.
2025 SW Deerhound Ave.
Redmond, OR 97756
Attention: Chief Executive Officer

If to Executive:

To the most recent address of Executive set forth in the personnel records of the Company.

(j) Executive Representation. Executive hereby represents to the Company that the execution and delivery of this Agreement by Executive and the performance by Executive of Executive's duties hereunder shall not constitute a breach of the terms of any employment agreement or other agreement or written policy to which Executive is a party or otherwise bound. Executive hereby further represents that Executive is not subject to any agreement with a previous employer that is unaffiliated with the Company Group that contains any restrictions on Executive's ability to solicit, hire or engage any employee or other service provider of such previous, unaffiliated employer that would restrict the ability of Executive to perform Executive's duties hereunder. Executive agrees that the Company is relying on the foregoing representations in entering into this Agreement and related equity-based award agreements.

(k) Withholding Taxes. The Company may withhold from any amounts payable under this Agreement such federal, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation. Any amounts so withheld shall be properly paid over to the appropriate government authority.

(l) Counterparts. This Agreement may be signed in counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

(m) Legal Advice and Tax Consulting Fee Reimbursement. The Company will reimburse reasonable and documented legal and tax consulting fees up to ten thousand dollars ($15,000.00) for the review and negotiation of this Agreement and associated documentation, including any equity awards. Any such reimbursement will be made following Executive's timely presentation of appropriate documentation itemizing such expenses in reasonable detail. Any reimbursements will be made within thirty (30) days of such substantiation.

(n) Parachute Payments; Best Net. Anything in this Agreement to the contrary notwithstanding, if any payments or benefits provided to Executive under this Agreement or otherwise would be subject to the excise tax imposed by Code Section 4999, the payments and benefits shall be reduced (but not below zero) to the extent necessary so that no portion is subject to the excise tax, but only if the net after-tax amount Executive would receive after such reduction exceeds the net after-tax amount Executive would receive without the reduction (after payment of the excise tax).

[*Signature Page Follows*]

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

EXPION ENERGY, INC.

By:
Name: Shawna Bowin
Title: Chief Financial Officer

EXECUTIVE

Kevin Sellers

Exhibit I

PERQUISITES

[***]

Exhibit II

EXCLUDED ACTIVITIES

[***]

Exhibit III

PRIOR WORKS

[***]

Exhibit 99.1

Expion Acquires Assets Establishing an Oil and Gas Exploration Platform

Broadened Operating Strategy Positions Expion to Potentially Supply
Long-Term Natural Gas to Growing AI Data Center Demand and U.S. LNG Export Markets

Expion Appoints New CEO with Deep Owner-Operator Experience and
Sophisticated Capital Markets Expertise to Lead Operating Strategy

Expion360 Inc. Changes Corporate Name to Expion Energy, Inc. to
Align with Expanded Energy Platform

REDMOND, OR – August 24, 2026 – Expion Energy, Inc., formerly known as Expion360 Inc. (Nasdaq: XPON) ("Expion" or the "Company"), a leader in energy storage solutions and delivery, has acquired an oil and gas exploration opportunity in Eastern Louisiana (the "Acquisition"), marking the Company's first entry into the oil and gas sector as part of a broadened operating strategy. In connection with the Acquisition, the Company entered into an exploration agreement governing the leasing, drilling, and testing of the prospect (the "Exploration Agreement"). As part of the Company's strategic expansion, the Board of Directors (the "Board") has appointed experienced industry executive Kevin Sellers as Chief Executive Officer, succeeding Joseph Hammer, and as a member of the Board, effective August 24, 2026. The Board also approved the Company's corporate name change to Expion Energy, Inc.

Mr. Hammer, interim Chairman of the Board and former Chief Executive Officer of Expion, commented, "Expion has spent the last several years building a business around storing and delivering energy efficiently and safely, and we are now applying that same focus to the other end of the energy value chain. The Acquisition gives us a defined exploration target in a proven producing region, supported by significant mineral title research, an existing leasehold position, a wellbore, and an experienced local partner. We are acquiring a drill-ready prospect rather than developing one through extensive and costly exploratory efforts, and we are doing so at a cost basis that we believe generates full-cycle economics exceeding those seen across the other major resource plays.

"Our business' expanded operating strategy requires proven leadership, and I am pleased to announce Kevin Sellers' appointment as Expion's new CEO. Kevin's deep owner-operator experience and capital markets expertise is well suited to lead our oil and gas exploration platform expansion. His extensive industry experience and financial acumen will be invaluable to Expion's success as we execute the Company's broadened strategy."

Mr. Sellers added, "This transaction represents an important strategic step for Expion as it continues to evaluate opportunities that align with the rapidly evolving energy landscape regarding future power consumption. The combination of substantial natural gas resource potential in a formation with multiple proven productive analog fields, its proximity to hyperscale AI data center development and power demand, and direct access to Gulf Coast LNG infrastructure creates a compelling long-term opportunity. I would like to thank the Board for their confidence in my appointment as CEO. This opportunity aligns perfectly with my success with founding and operating start-ups and raising the necessary capital to ensure their success. I look forward to working with Joe and the Board on this new endeavor."

The Oil and Gas Acquisition

Through the Acquisition, the Company acquired assets including an existing oil and gas leasehold of approximately 3,000 net acres within the prospect, a wellbore, mineral title research covering approximately 13,000 net acres, and intellectual property developed in connection with the prospect. After adjustments for a $100,000 certificate of deposit held by the acquired company and the Company's previously paid $175,000 earnest money deposit to the sellers, an adjusted purchase price of $3,425,000 in cash was paid at closing.

The Prospect

The prospect encompasses an area of mutual interest in Eastern Louisiana and targets multiple stacked benches within a prolific reservoir known to contain numerous analog field discoveries within the regional trend. The acquired company holds existing leases covering approximately 3,000 net acres within the area. The Company intends to expand the prospect's acreage footprint through a program to re-lease expired tracts and acquire new leases within the area of mutual interest.

Exploration Agreement

Concurrent with the completion of the Acquisition, Expion entered into the Exploration Agreement with the acquired company and an experienced local counterparty that will serve as lease manager and provide leasing services for the project. The agreement establishes the parties' respective rights and obligations with respect to the prospect.

The Exploration Agreement contemplates the drilling and testing of a new lateral wellbore no later than February 15, 2027, subject to customary exceptions. Pursuant to the Exploration Agreement, the Company will commit up to $4,000,000 to finance the leasing program, with no less than $2,500,000 dedicated to leasing at the prevailing market rates

Executive Transition and Inducement Award

Effective August 24, 2026, Mr. Hammer resigned as Chief Executive Officer. Mr. Hammer continues to serve as Chairman of the Board on an interim basis. The Board appointed Mr. Sellers as Chief Executive Officer and a member of the Board, effective as of the same date.

Since 2009, Mr. Sellers has served as the Founder and Managing Member of Cynergy, a boutique investment banking firm based in Central Texas that specializes in upstream and midstream oil and gas transactions. Under his leadership, Cynergy participated in or advised on transactions totaling more than $5.0 billion in closed or advised transactions, and built Cynergy into a trusted advisor known for combining deep owner-operator experience with sophisticated capital markets expertise. Prior to founding Cynergy, Mr. Sellers co-founded and served as Managing Partner of KMR Capital, LLC, a boutique energy-focused investment bank, from 2003 to 2009, where he completed multiple debt and equity raises and helped launch three independent exploration and production companies. Concurrently, he co-founded and operated the Spyglass exploration and production partnerships, including Spyglass Cedar Creek LP, where he directed operations across 130,000 acres in the Rockies, raised equity and debt capital, and structured joint ventures. Mr. Sellers is a graduate of Texas State University.

In connection with his appointment as Chief Executive Officer, Mr. Sellers entered into an employment agreement with the Company (the "Sellers Employment Agreement") effective August 24, 2026. Pursuant to the terms of the Sellers Employment Agreement, Mr. Sellers is entitled to a base salary and eligible for an annual cash incentive bonus. In addition, the Compensation Committee approved a grant to Mr. Sellers of 50,000 restricted stock units (the "RSUs") as an inducement award pursuant to Nasdaq Listing Rule 5635(c)(4). Twenty-five percent of the RSUs will vest on the first anniversary of the grant date, and the remainder will vest in 12 equal quarterly installments thereafter, in each case subject to Mr. Sellers' continued employment, provided the RSUs will vest in full upon a change of control transaction.

Corporate Name Change

Effective at 12:01 a.m. Pacific Time August 20, 2026, the Company changed its corporate name from “Expion360 Inc.” to “Expion Energy, Inc.” The change is intended to better align with the Company’s expanded energy platform and operating strategy. The Board approved the related amendments to the Company’s articles of incorporation and amended and restated bylaws.

About Expion Energy

Expion Energy is an industry leader in premium lithium iron phosphate (LiFePO4) batteries and accessories for recreational vehicles, marine applications, Light EV and industrial applications. The Company’s lithium-ion batteries feature half the weight of standard lead-acid batteries while delivering three times the power and ten times the number of charging cycles. Expion Energy batteries also feature better construction and reliability compared to other lithium-ion batteries on the market due to their superior design and quality materials. Specially reinforced, fiberglass-infused, premium ABS casing and solid mechanical connections help provide top performance and safety. Expion Energy delivers advanced lithium battery technology that powers every adventure, every mission, for the moments that matter.

Expion is entering the oil and gas sector to capture rising demand driven by power generation needs, industrial growth, and long-term expansion LNG markets. The Company will target opportunistic growth through selective acquisitions and development projects that provide scale, enhance value, and support sustained shareholder value. The Company recently changed its corporate name from “Expion360 Inc.” to “Expion Energy, Inc.” to better align with its expanded energy platform and broadened operating strategy.

Expion Energy is headquartered in Redmond, Oregon. The Company’s lithium-ion batteries are available today through more than 300 dealers, wholesalers, private-label customers, and OEMs across the country.

To learn more about the Company, visit www.expion360.com.

Forward-Looking Statements

This press release contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, each as amended. Forward-looking statements include all statements that do not relate solely to historical or current facts, including without limitation statements regarding the Company’s business prospects, and can be identified by the use of words such as “may,” “will,” “expect,” “project,” “estimate,” “anticipate,” “plan,” “believe,” “potential,” “should,” “continue” or the negative versions of those words or other comparable words. Forward-looking statements included in this press release relate to, among other things, the Company’s ability to (i) extend the prospect’s acreage footprint within the area of mutual interest, (ii) take advantage of the evolving energy landscape and future power consumption, (iii) complete the drilling and testing of a wellbore on the required timeline, and (iv) obtain the intended benefits from the natural gas resource potential within the formation. These forward-looking statements are based on information currently available to the Company and its current plans or expectations and are subject to a number of risks and uncertainties that could significantly affect current plans. Should one or more of these risks or uncertainties materialize, or the underlying assumptions prove incorrect, actual results may differ significantly from those anticipated, believed, estimated, expected, intended, or planned. Although the Company believes that the expectations reflected in the forward-looking statements are reasonable, the Company cannot guarantee future results, performance, or achievements. Except as required by applicable law, including the security laws of the United States, the Company does not intend to update any of the forward-looking statements to conform these statements to actual results.

Company Contact:
541-797-6714
Shawna.Bowin@expion360.com

External Investor Relations:
Chris Tyson, Executive Vice President
MZ Group - MZ North America
949-491-8235
XPON@mzgroup.us
www.mzgroup.us

Exhibit 99.2

Expion Announces $9.0 Million Initial Closing of Private Placement

Potential for Additional $91.0 Million of Investments

REDMOND, OR – August 24, 2026 – Expion Energy, Inc., formerly known as Expion360 Inc. (Nasdaq: XPON) ("Expion" or the "Company"), a leader in energy storage solutions and delivery, has entered into a definitive agreement with certain accredited investors related to a private placement offering pursuant to which the Company is initially issuing $9.0 million in aggregate principal amount of 8% Convertible Debentures and Warrants to purchase up to 2,117,219 shares of the Company's common stock at an initial exercise price of $4.25 per share (subject to adjustment, including in the case of certain dilutive issuances), which resulted in net proceeds to the Company of approximately $8.2 million (excluding proceeds from any cash exercise of the Warrants), after deducting placement agent fees and estimated offering expenses.

Subject to the Company receiving shareholder approval and filing a Certificate of Designation of Series A-1 8% Convertible Preferred Stock with the Nevada Secretary of State, the Convertible Debentures will have an initial Stated Value equal to $1,000 per share and will automatically convert into 9,000 shares of the Company's Series A-1 8% Convertible Preferred Stock, which may subsequently be converted into shares of the Company's common stock on the terms set forth in the Certificate of Designation.

The Series A-1 8% Convertible Preferred Stock (i) will accrue cumulative dividends, commencing on the first anniversary of the issuance date, at a rate of 8% per annum payable quarterly in cash or, under certain circumstances, shares of the Company's common stock, (ii) can be converted into shares of the Company's common stock at an initial conversion price of $4.25 per share, subject to adjustment (including in the case of certain dilutive issuances), (iii) has a liquidation preference equal to the Stated Value plus any accrued and unpaid dividends, and (iv) will not have any voting rights.

Subject to the Company receiving shareholder approval, the investors have the right, but not the obligation, to purchase up to $91.0 million of additional shares of the Company's convertible preferred stock (representing 91,000 additional shares) in one or more additional private placement closings. The Company's convertible preferred stock purchased at each additional private placement closing will be issued in a separate series pursuant to a new certificate of designation for each such series filed by the Company with the Nevada Secretary of State and will have substantially similar terms to the Series A-1 8% Convertible Preferred Stock.

The Warrants are issuable in connection with the initial closing of the sale of the Debentures, but not in connection with any subsequent closing of additional shares of convertible preferred stock pursuant to the exercise of the additional investment right. The Warrants have a term of five years and may be exercised in cash or, if a registration statement under the Securities Act of 1933, as amended (the "Securities Act"), registering the resale of the common stock underlying the Warrants is not effective, through a cashless exercise.

The lead investor is Five Narrow Lane LP, which is affiliated with Joseph Hammer, the Company's interim Chairman of the Board and former Chief Executive Officer. The private placement was approved by the disinterested members of the Company's board of directors.

The private placement closed on August 21, 2026.

The Company intends to use the net proceeds of the private placement for (i) the acquisition of certain oil and gas assets in Eastern Louisiana, and (ii) general corporate purposes, including working capital.

The securities are being offered to accredited investors in reliance on an exemption from the registration requirements of the Securities Act and the rules and regulations promulgated thereunder. The securities have not been registered under the Securities Act or any state securities laws and, unless so registered, may not be offered or sold in the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state securities laws. In connection with the private placement, the Company has agreed, subject to certain terms and conditions, to file a registration statement to register for resale the shares of common stock issuable upon conversion of the Series A-1 8% Convertible Preferred Stock issuable upon conversion of the Convertible Debentures, and upon exercise of the warrants, issued in the private placement.

This announcement is neither an offer to sell nor a solicitation of an offer to buy any of the securities issued in the private placement (or any securities issued upon conversion or exercise of the securities issued in the private placement).

About Expion Energy

Expion Energy is an industry leader in premium lithium iron phosphate (LiFePO4) batteries and accessories for recreational vehicles, marine applications, Light EV and industrial applications. The Company's lithium-ion batteries feature half the weight of standard lead-acid batteries while delivering three times the power and ten times the number of charging cycles. Expion Energy batteries also feature better construction and reliability compared to other lithium-ion batteries on the market due to their superior design and quality materials. Specially reinforced, fiberglass-infused, premium ABS casing and solid mechanical connections help provide top performance and safety. Expion Energy delivers advanced lithium battery technology that powers every adventure, every mission, for the moments that matter.

Expion Energy is entering the oil and gas sector to capture rising demand driven by power generation needs, industrial growth, and long-term LNG markets. The Company will target opportunistic growth through selective acquisitions and development projects that provide scale, enhance value, and support sustained shareholder value. The Company recently changed its corporate name from "Expion360 Inc." to "Expion Energy, Inc." to better align with its expanded energy platform and broadened operating strategy.

Expion Energy is headquartered in Redmond, Oregon. The Company's lithium-ion batteries are available today through more than 300 dealers, wholesalers, private-label customers, and OEMs across the country.

To learn more about the Company, visit www.expion360.com.

Forward-Looking Statements

This press release contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, each as amended. Forward-looking statements include all statements that do not relate solely to historical or current facts, including without limitation statements regarding the Company's business prospects, and can be identified by the use of words such as "may," "will," "expect," "project," "estimate," "anticipate," "plan," "believe," "potential," "should," "continue" or the negative versions of those words or other comparable words. Forward-looking statements relate to, among other things, statements regarding, the convertibility of the 8% Convertible Debentures into shares of Series A-1 8% Convertible Preferred Stock, the proposed private placement of additional shares of the Company's preferred stock, and the intended use of proceeds from the offering, including the closing of the acquisition of certain oil and gas assets. These forward-looking statements are based on information currently available to the Company and its current plans or expectations and are subject to a number of risks and uncertainties that could significantly affect current plans. Should one or more of these risks or uncertainties materialize, or the underlying assumptions prove incorrect, actual results may differ significantly from those anticipated, believed, estimated, expected, intended, or planned. Although the Company believes that the expectations reflected in the forward-looking statements are reasonable, the Company cannot guarantee future results, performance, or achievements. Except as required by applicable law, including the security laws of the United States, the Company does not intend to update any of the forward-looking statements to conform these statements to actual results.

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