As filed with the Securities and Exchange Commission on October 23, 2026

Registration No. 333-

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

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

EXPION ENERGY, INC.
(Exact name of registrant as specified in its charter)

Nevada	**81-2701049**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

2025 SW Deerhound Avenue
Redmond, Oregon 97756
(541) 797-6714
(Address, including zip code, and telephone number,
including area code, of registrant's principal executive offices)

Kevin Sellers
Chief Executive Officer and President
2025 SW Deerhound Avenue
Redmond, Oregon 97756
(541) 797-6714
(Name, address, including zip code, and telephone number,
including area code, of agent for service)

Copies to:
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Newport Beach, California 92660
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From time to time or at one time as determined by the Registrant
after the effective date of this registration statement.
(Approximate date of commencement of proposed sale to the public)

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box: ☐

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box: ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ☐

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ☐

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

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		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 7(a)(2)(B) of Securities Act. ☐

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment that specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

EXPLANATORY NOTE

We are filing this registration statement with the Securities and Exchange Commission (the "SEC") using a "shelf" registration process. Under this "shelf" registration statement, in the future, we may, from time to time, sell any combination of the securities described herein, in one or more offerings, up to a maximum offering price of 50,000,000.

This registration statement contains two prospectuses:

- a base prospectus, which covers the offer, issuance, and sale by us of up to a maximum aggregate offering price of $50,000,000 of our common stock, preferred stock, debt securities, and/or warrants from time to time in one or more offerings; and

- a sales agreement prospectus supplement covering the offering, issuance and sale of up to $1,666,183 of shares of our common stock that may be issued and sold under an at-the-market issuance sales agreement we entered with H.C. Wainwright & Co., LLC ("Agent").

The base prospectus immediately follows this explanatory note. The specific terms of any securities to be offered pursuant to the base prospectus will be specified in a prospectus supplement to the base prospectus. The sales agreement prospectus supplement immediately follows the base prospectus. The $1,666,183 of our common stock that may be offered, issued and sold under the sales agreement prospectus supplement is included in the $50,000,000 of securities that may be offered, issued and sold by us under the base prospectus. Upon termination of the sales agreement, any portion of the $1,666,183 included in the sales agreement prospectus that is not sold pursuant to the sales agreement will be available for sale in other offerings pursuant to the base prospectus and a prospectus supplement that would contain specific information about the terms of that offering.

The information in this preliminary prospectus is not complete and may be changed. The securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

PRELIMINARY PROSPECTUS
SUBJECT TO COMPLETION, DATED OCTOBER 23, 2026



Expion Energy, Inc.

$50,000,000
Common Stock
Preferred Stock
Debt Securities
Warrants

From time to time we may offer and sell up to $50,000,000 in the aggregate of any combination of the securities described in this prospectus in one or more offerings. We may also offer securities as may be issuable upon conversion, redemption, repurchase, exchange or exercise of any securities registered hereunder, including any applicable anti-dilution provisions.

This prospectus provides a general description of the securities we may offer. Each time we offer and sell securities, we will file a supplement to this prospectus that contains specific information about the offering and the amounts, prices and terms of the securities. We may also authorize one or more free writing prospectuses to be provided to you in connection with these offerings. The prospectus supplement and any related free writing prospectus may also add, update or change information contained in this prospectus. You should carefully read this prospectus, the applicable prospectus supplement and any related free writing prospectus, as well as any documents incorporated by reference, before you invest in any of the securities being offered.

This prospectus may not be used to consummate a sale of any securities unless accompanied by a prospectus supplement.

We may offer and sell the securities described in this prospectus and any prospectus supplement to or through one or more underwriters, dealers and agents, or directly to purchasers, or through a combination of these methods, which may be on a delayed or continuous basis. For additional information on the methods of sale, you should refer to the section entitled "*Plan of Distribution*" in this prospectus and in the applicable prospectus supplement. If any agents or underwriters are involved in the sale of any securities with respect to which this prospectus is being delivered, the names of such agents or underwriters and any applicable fees, commissions, discounts or over-allotment options will be set forth in a prospectus supplement. The price to the public of such securities and the net proceeds we expect to receive from such sale will also be set forth in a prospectus supplement.

Our common stock is traded on The Nasdaq Capital Market under the symbol "XPON." On October 22, 2026, the last reported sale price of our common stock was $3.92 per share. The applicable prospectus supplement will contain information, where applicable, as to any other listing on The Nasdaq Capital Market or any securities market or other exchange of the securities, if any, covered by the prospectus supplement.

As of October 22, 2026, the aggregate market value of our outstanding common stock held by non-affiliates, or our public float, was approximately $8,963,061. This value was computed by reference to the highest closing price of our common stock on Nasdaq within the preceding 60 days ($9.17 per share on August 26, 2026), multiplied by 977,433 shares held by non-affiliates. Pursuant to General Instruction I.B.6 of Form S-3, in no event will we sell securities in a public primary offering with a value exceeding one-third of our public float in any 12-month period so long as our public float remains below $75.0 million (the "Baby Shelf Limitation"). During the 12 calendar months prior to and including the date of this prospectus supplement (excluding this offering), we have sold approximately $1,321,503 in securities pursuant to General Instruction I.B.6 of Form S-3.

We are an "emerging growth company" and a "smaller reporting company" as defined under the federal securities laws and, as such, have elected to comply with certain reduced public company reporting requirements. Refer to the section entitled "*Prospectus Summary—Implications of Being an Emerging Growth Company and a Smaller Reporting Company*" in this prospectus for additional information.

Investing in our securities involves a high degree of risk. You should review carefully the risks and uncertainties described under the heading "*Risk Factors*" on page 8 of this prospectus and in any applicable prospectus supplement and related free writing prospectus we have authorized for use in connection with a specific offering, and under similar headings in the other documents that are incorporated by reference into this prospectus. You should read this entire prospectus carefully before you make your investment decision.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The date of this prospectus is , 2026

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You should rely only on the information contained, or incorporated by reference, in this prospectus and in an applicable prospectus supplement to this prospectus. We have not authorized any other person to provide you with different or additional information. If anyone provides you with different or additional information, you should not rely on it. We do not take responsibility for, and can provide no assurance as to the reliability of, any other information that others may provide you. We are not making an offer to sell these securities or soliciting any offer to buy these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus, any applicable prospectus supplement, or any free writing prospectus we authorize to be delivered to you, is accurate only as of the date of that document or any other date set forth in that document. Additionally, any information we have incorporated by reference in this prospectus or in any applicable prospectus supplement is accurate only as of the date of the document incorporated by reference or other date set forth in that document, regardless of the time of delivery of this prospectus, any applicable prospectus supplement or any sale of securities. Our business, financial condition, results of operations, cash flow and prospects may have changed since that date.

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement on Form S-3 that we have filed with the Securities and Exchange Commission (the "SEC") using a "shelf" registration process.

Under this process, we may sell the securities described in this prospectus in one or more offerings for an aggregate offering amount of up to $50,000,000, subject to the Baby Shelf Limitation. This prospectus describes the general manner in which we may offer the securities described in this prospectus. Each time we sell securities pursuant to this registration statement, we will provide a prospectus supplement that will contain specific information about the offering and the securities offered, and may also add, update or change information contained in this prospectus. We may also authorize one or more free writing prospectuses to be provided to you that may contain additional information relating to these offerings. If there is any inconsistency between information in this prospectus and any accompanying prospectus supplement or free writing prospectus, you should rely on the information in the most recent applicable prospectus supplement or free writing prospectus and documents incorporated by reference herein and therein. This prospectus may not be used to offer to sell, solicit an offer to buy or consummate a sale of our securities unless it is accompanied by a prospectus supplement.

This prospectus, together with any accompanying prospectus supplement and any additional information incorporated by reference herein and therein, contains important information you should know before investing in our securities, including important information about us and the securities being offered. You should carefully read both documents, as well as the additional information contained in the documents described in the sections entitled "*Where You Can Find More Information*" and "*Incorporation by Reference*" in this prospectus and any applicable prospectus supplement.

Neither this prospectus nor any accompanying prospectus supplement is an offer to sell these securities or is soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

This prospectus contains or incorporates by reference summaries of certain provisions contained in some of the documents described herein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by the actual documents. Copies of some of the documents referred to herein have been filed, will be filed or will be incorporated by reference as exhibits to the registration statement of which this prospectus is a part, and you may obtain copies of those documents as described below in the section of this prospectus entitled "*Incorporation by Reference.*"

SELECTED DEFINITIONS

Unless otherwise stated in this prospectus or the context otherwise requires, reference to:

- "AIR Convertible Debentures" means the additional Convertible Debentures issuable pursuant to the exercise of the additional investment right granted under the Purchase Agreement.
- "Articles of Incorporation" means the articles of incorporation of Expion Energy, as amended.
- "Additional Investment Right" means the right of the purchasers under the Purchase Agreement to elect to purchase the AIR Convertible Debentures in the aggregate principal amount of up to $91,000,000 at any time during the 18-month period following the Effective Date, as that term is defined in the Purchase Agreement.
- "August 2026 Warrants" means the Amended and Restated Common Stock Purchase Warrants, with an exercise price of $4.25 per share, issued by Expion Energy pursuant to the Purchase Agreement.
- "Bylaws" means the bylaws of Expion Energy, as amended.
- "common stock" means the shares of common stock, par value $0.001 per share, of Expion Energy.
- "Convertible Debentures" means the Amended and Restated 8% Convertible Debentures Due August 21, 2029 issued by Expion Energy pursuant to the Purchase Agreement.
- "Exchange Act" means the Securities Exchange Act of 1934, as amended.
- "Exchange Cap" means 19.99% of our outstanding shares of common stock as of immediately prior to execution of the Purchase Agreement, including the shares issuable upon conversion of, or payment of interest on, the Convertible Debentures and the AIR Convertible Debentures, and exercise of the August 2026 Warrants.
- "Expion Energy," the "Company," "we," "us," and "our" means Expion Energy, Inc., a Nevada corporation.
- "Purchase Agreement" means that certain Amended and Restated Securities Purchase Agreement, dated October 22, 2026, which amends and restates that certain Securities Purchase Agreement dated August 21, 2026, between Expion Energy and each purchaser identified on the signature pages thereto.
- "SEC" means the Securities and Exchange Commission.
- "Securities Act" means the Securities Act of 1933, as amended.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, together with any accompanying prospectus supplement, and the documents incorporated by reference herein or therein may include "forward-looking statements" within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. All statements in this prospectus, together with any accompanying prospectus supplement, and the documents incorporated by reference herein or therein, other than statements of historical fact, are "forward-looking statements" for purposes of these provisions, including, without limitation, any projections regarding the markets where we operate, any statements of the plans and objectives of our management for future operations, any statements concerning proposed new products or services, any statements regarding expected capital expenditures, any statements regarding future economic conditions or performance, and any statements of assumptions underlying any of the foregoing. All forward-looking statements included in this prospectus and the documents incorporated by reference herein are made as of the date hereof or thereof, as applicable, and are based on information available to us as of such dates. We assume no obligation to update any forward-looking statement. In some cases, forward-looking statements can be identified by the use of terminology such as "may," "will," "expects," "plans," "should," "anticipates," "intends," "seeks," "believes," "estimates," "potential," "forecasts," "continue," or other forms of these words or similar words or expressions, or the negative thereof or other comparable terminology. Although we believe that the expectations reflected in the forward-looking statements contained herein are reasonable, there can be no assurance that such expectations or any of the forward-looking statements will prove to be correct. Actual results will likely differ, and could differ materially, from those projected or assumed in the forward-looking statements. Prospective investors are cautioned not to unduly rely on any such forward-looking statements.

Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based only on our current beliefs, expectations, and assumptions regarding the future of our business, future plans and strategies, projections, anticipated events and trends, the economy, and other future conditions. Because forward-looking statements relate to the future, they are subject to inherent uncertainties, risks, and changes in circumstances that are difficult to predict and many of which are outside of our control. Our actual results and financial condition may differ materially from those indicated in the forward-looking statements. Therefore, you should not rely on any of these forward-looking statements. Important factors that could cause our actual results and financial condition to differ materially from those indicated in the forward-looking statements include, among others, the following:

- We operate in extremely competitive industries and are subject to pricing pressures.
- We have a history of losses. We may not be able to generate sufficient revenue to achieve and sustain profitability.
- Our audited financial statements include a statement that there is a substantial doubt about our ability to continue as a going concern and a continuation of negative financial trends could result in our inability to continue as a going concern.
- Our results of operations could be adversely affected by changes in the cost and availability of raw materials and our reliance on third-party manufacturers and suppliers.
- Increases in costs, disruption of supply, or shortage of any of our battery components such as electronic and mechanical parts could harm our business.
- We may not be able to raise additional capital on acceptable terms or at all, and our failure to obtain additional financing could adversely affect our ability to continue as a going concern.
- Our business and future growth depends on the needs and success of our customers.
- We have substantial customer concentration, with a limited number of customers accounting for a substantial portion of our sales, and the loss of or reduction in purchases by any of these customers could adversely affect our results of operations.
- If we fail to expand our sales and distribution channels, our business could suffer.
- The uncertainty in global economic conditions could negatively affect our results of operations.

- Tariffs on imported battery components may increase our costs, and we may be unable to fully mitigate such increases.
- We are currently, and will likely continue to be, dependent on a limited number of warehouse facilities. If our facilities become inoperable for any reason, our ability to produce our products could be negatively impacted.
- We could face potential product liability or warranty claims relating to our products, including the components thereof, which could reduce market adoption, result in reputation damage, and result in significant costs and liabilities, which would reduce our profitability. Drilling and exploration activities for oil and natural gas are inherently uncertain and subject to many risks, and we may not be able to demonstrate the commercial viability of the prospect, which would have a material adverse impact on our business, financial condition and results of operations.
- We may be unable to acquire additional leases, and even if we expand our leasehold position, there is no assurance that additional acreage will result in commercially productive operations.
- Oil and natural gas prices are highly volatile, and our future financial performance is substantially dependent on prevailing prices of oil and natural gas.
- We are subject to complex federal, state, local and other laws and regulations that could adversely affect the timing, cost, manner or feasibility of conducting our operations and expose us to significant costs and liabilities.
- Our failure to introduce new products and product enhancements that respond to customer and end consumer demand, and any broad market acceptance of new technologies introduced by our competitors, could adversely affect our business.
- We may not be able to adequately protect our proprietary intellectual property and technology and we may need to defend ourselves against intellectual property infringement claims.
- Any acquisitions or other strategic transactions that we complete may not achieve their intended benefits and may involve significant costs, diversion of management attention and resources, integration difficulties, or unanticipated liabilities, and may have adverse effects on our financial condition and results of operations.
- If our electronic data is compromised, or we experience a failure in our information technology or storage systems, our business could be significantly harmed.
- Our ability to raise capital in the future may be limited, especially if we are unable to obtain stockholder approval of the issuance of shares of common stock upon conversion of the Convertible Debentures and the AIR Convertible Debentures in excess of the Exchange Cap, which could make us unable to fund our capital requirements and prevent us from pursuing our business strategy.
- We depend on our senior management team and other key employees, and significant attrition within our management team or unsuccessful succession planning could adversely affect our business.
- We may be unable to maintain compliance with the continued listing requirements of The Nasdaq Capital Market, including the minimum bid price requirement or market value of listed securities requirement, which could result in the delisting of our common stock.
- Our stock price may fluctuate significantly, and stockholders may lose some or all of their investment.
- The issuance of shares of our common stock upon the conversion or exercise of the securities issued or issuable in our private placement will cause substantial dilution to our existing stockholders.
- Our ability to receive additional funding under the Additional Investment Right is subject to the sole discretion of the purchasers, and if the purchasers do not exercise the Additional Investment Right, our ability to raise capital may be materially limited.
- The terms of the private placement may have the effect of preventing, deterring, or increasing the cost of, our future capital raising activities.
- The conversion price of the Convertible Debentures and the AIR Convertible Debentures are subject to adjustment, which may result in additional dilution to our existing stockholders.
- The Convertible Debentures and the AIR Convertible Debentures will bear interest, and we may be unable to pay interest when due or to repay the principal amount at maturity.
- Events of default under the Convertible Debentures or the AIR Convertible Debentures could result in acceleration of amounts owed and other remedies that could materially harm our business.
- Such other factors as discussed under "*Risk Factors*" herein and in the documents incorporated by reference herein, including our latest Annual Report on Form 10-K.

Moreover, new risks and uncertainties emerge occasionally, and it is not possible for us to predict all risks and uncertainties, nor can we assess the impact of all factors on our business, or the extent to which any factor, or combination of factors, may cause our actual future results to be materially different from any results expressed in or implied by any forward-looking statements. Financial estimates are subject to change and are not intended to be relied upon as predictions of future results of operations. Except as required by applicable law or the listing rules of The Nasdaq Stock Market, we expressly disclaim any intent or obligation to update any forward-looking statements. If we do update or correct any forward-looking statements, investors and others should not conclude that we will make additional updates or corrections. All forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by these cautionary statements.

PROSPECTUS SUMMARY

The following summary highlights information contained in greater details elsewhere in this prospectus or incorporated by reference into this prospectus. This summary is not complete and does not contain all of the information you should consider in making your investment decision. You should read the entire prospectus, any applicable prospectus supplement and the documents we have incorporated by reference in this prospectus carefully before making an investment in our securities. You should carefully consider, among other things, our financial statements and related notes and the information set forth in the section entitled "*Risk Factors*" and other information incorporated by reference into this prospectus from our filings with the SEC. See also the sections entitled "*Where You Can Find More Information*" and "*Incorporation By Reference*."

Overview

Lithium Battery Business

Expion Energy, formerly known as Expion360 Inc., focuses on the design, assembly, manufacturing, and sale of lithium iron phosphate ("LiFePO4") batteries and supporting accessories for recreational vehicles ("RVs"), marine applications, and industrial energy storage products. Our high-powered lithium battery solutions incorporate innovative concepts and have been designed to include some of the most dense and minimal-footprint batteries in the RV and marine industries. We deploy intellectual property strategies to support product development, enhance safety and performance, and strengthen relationships across our target markets. This includes design, development, and collaboration, using our IP to bring safety, quality, and service to our customers. Our customers consist of dealers, wholesalers, private-label customers, and original equipment manufacturers ("OEMs") who then sell our products to end consumers and drive brand awareness nationally.

Our primary target markets include the RV, marine, industrial, and commercial energy storage industries. Within the industrial sector, we participate in applications such as electric material handling and forklift equipment, where lithium battery adoption continues to increase as an alternative to traditional lead-acid systems. We believe the broader transition from lead-acid to lithium batteries presents growth opportunities across these markets.

In addition to our current focus areas, we are evaluating opportunities to expand further into industrial and mission-critical commercial applications that require integrated battery energy storage solutions. These may include mobile and stationary systems supporting remote operations, security infrastructure, and other environments that require a high degree of reliability. While we continue to assess these industrial and adjacent markets, our current commercial activities remain concentrated in our established RV, marine, and industrial segments.

Our battery products provide numerous advantages for various industries that are looking to migrate to lithium-based energy storage. They incorporate detailed design and engineering, strong case materials, optimized internal structural layouts, and are supported by responsive customer service.

Oil and Gas Opportunity

We are entering the oil and gas sector to capture rising demand driven by power generation needs, industrial growth, and long-term expansion of LNG markets. We will target opportunistic growth through selective acquisitions and development projects that provide scale, enhance value, and support sustained stockholder value.

On August 21, 2026, we entered into a membership interest purchase agreement (the "Membership Interest Purchase Agreement") pursuant to which we acquired all of the issued and outstanding membership interests of the target company (the "Target"). 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.

Concurrently with execution of the Membership Interest Purchase Agreement, we entered into an exploration agreement (the "Exploration Agreement") with the Target. The Exploration Agreement addresses: (i) existing leases for the approximately 3,000 net acres the Target already owns, (ii) leases for acreage within the AMI that was previously leased, and (iii) new leases intended to be acquired within the AMI representing the expansion of the acreage footprint.

Pursuant to the terms of the Exploration Agreement, we are 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.

Private Placement

On August 21, 2026, we entered into the Purchase Agreement, as subsequently amended on October 22, 2026, providing for the issuance and sale of: (i) Convertible Debentures, in an aggregate principal amount of $9,000,000, which, upon obtaining stockholder approval, will initially become convertible into up to 2,117,219 shares of common stock based on an initial conversion price of $4.25 per share, and (ii) August 2026 Warrants to purchase up to 2,117,219 shares of common stock at an exercise price of $4.25 per share (the "Private Placement"). Five Narrow Lane, LP ("FNL") was the lead purchaser in the Private Placement. Our former Chief Executive Officer and Chairman of the Board, Joseph Hammer, serves as a managing member of the general partner of FNL and may be deemed to share voting and dispositive power over the shares of common stock issuable upon conversion of the Convertible Debentures and the AIR Convertible Debentures, and upon exercise of the August 2026 Warrants. Pursuant to the Purchase Agreement, the purchasers in the Private Placement may also elect to purchase the AIR Convertible Debentures in the aggregate principal amount of up to $91,000,000 at any time during the 18-month period following the Effective Date, as that term is defined in the Purchase Agreement.

Corporate Information

We were initially organized as a limited liability company under the name "Yozamp Products Company, LLC" in the State of Oregon on June 16, 2016, and converted to a Nevada corporation under the name "Expion360 Inc." pursuant to articles of conversion dated as of November 16, 2021.

We recently changed our corporate name from "Expion360 Inc." to "Expion Energy, Inc." to better align with our expanded energy platform and broadened operating strategy.

Our principal executive offices are located at 2025 SW Deerhound Avenue, Redmond, Oregon 97756, and our phone number is (541) 797-6714.

Our principal website is www.expion360.com. The information contained on, or that can be accessed through, our website is not a part of this prospectus or the registration statement of which it forms a part. The inclusion of our website address in this prospectus is an inactive textual reference only. Investors should not rely on any such information in deciding whether to purchase our Common Stock.

Implications of Being an Emerging Growth Company and a Smaller Reporting Company

We qualify as an "emerging growth company" as defined in the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act"). An emerging growth company may take advantage of specified reduced reporting and other burdens that are otherwise applicable generally to public companies. These provisions include:

- an exemption from the auditor attestation requirement in the assessment of our internal control over financial reporting pursuant to the Sarbanes-Oxley Act of 2002;
- an exemption from compliance with any new requirements adopted by the Public Company Accounting Oversight Board requiring mandatory audit firm rotation;
- reduced disclosure obligations regarding executive compensation arrangements; and
- no requirement to seek nonbinding advisory votes on executive compensation or golden parachute arrangements.

We may take advantage of some or all these provisions until we are no longer an emerging growth company. We will remain an emerging growth company until the earlier to occur of (a) (i) the end of the fiscal year following the fifth anniversary of the completion of our initial public offering, (ii) the last day of the fiscal year in which we have total annual gross revenues of at least $1.235 billion, or (iii) the last day of the fiscal year in which we are deemed to be a "large accelerated filer" under SEC rules, which means the market value of our common stock that is held by non-affiliates exceeds $700.0 million as of the prior June 30th, and (b) the date on which we have issued more than $1.0 billion in non-convertible debt during the prior three-year period. We have elected to use this extended transition period under the JOBS Act. As a result, our financial statements may not be comparable to the financial statements of issuers that are required to comply with the effective dates for new or revised accounting standards that are applicable to public companies, which may make comparison of our financials to those of other public companies more difficult.

We also qualify as a "smaller reporting company" (and may continue to qualify as such even after we no longer qualify as an emerging growth company) as defined in the Exchange Act, and accordingly may provide less public disclosure than larger public companies, including the inclusion of only two years of audited financial statements and only two years of related selected financial data and management's discussion and analysis of financial condition and results of operations disclosure. As a result, the information that we provide to our stockholders may be different than you might receive from other public reporting companies in which you hold equity interests.

RISK FACTORS

An investment in the securities offered pursuant to this prospectus and any applicable prospectus supplement involves a high degree of risk. You should consider carefully the risks described below, as well as the risk factors contained in our most recent Annual Report on Form 10-K, and any subsequent Quarterly Reports on Form 10-Q or Current Reports on Form 8-K, and all other information contained or incorporated by reference into this prospectus, as updated by our subsequent filings under the Exchange Act, and the risk factors and other information contained in or incorporated by reference into any applicable prospectus supplement before acquiring any of such securities. The risks and uncertainties we have described are not the only ones facing our company. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business operations. The occurrence of any of these risks might cause you to lose all or part of your investment in the offered securities. The discussion of risks includes or refers to forward-looking statements. You should read the explanation of the qualifications and limitations on such forward-looking statements contained or incorporated by reference into this prospectus and in any applicable prospectus supplement.

Risks Related to Our Oil and Gas Exploration Opportunity

Drilling and exploration activities for oil and natural gas are inherently uncertain and subject to many risks, and we may not be able to demonstrate the commercial viability of the Prospect, which would have a material adverse impact on our business, financial condition and results of operations.

On August 21, 2026, we acquired an oil and gas exploration opportunity (the "Prospect") encompassing an area of mutual interest (the "AMI") in Eastern Louisiana targeting multiple stacked benches within a specific gas reservoir (the "Acquisition"). The Acquisition included an existing oil and gas leasehold of approximately 3,000 net acres, a single wellbore (the "Well"), mineral title research covering approximately 13,000 net acres, and intellectual property developed in connection with the Prospect. Pursuant to the Acquisition, we have committed to invest up to $4,000,000 to finance a leasing program, with no less than $2,500,000 dedicated to leasing activities. Concurrent with the Acquisition, we entered into an Exploration Agreement with a local counterparty to serve as lease manager (the "Lease Manager"). Under the Exploration Agreement, our exploration activities will initially be concentrated within the AMI, and we will initiate a mandatory well operation consisting of directional drilling of a new lateral wellbore out of the Well (the "Mandatory Well Operation").

Drilling and exploration activities are inherently uncertain and subject to many risks, including the risk that no commercially productive oil or natural gas reservoirs will be encountered, which is exacerbated as a result of our initial focus on a narrow geographic area and single well. Our current business strategy depends, to a large extent, on our ability to demonstrate the commercial viability of the Prospect, and there can be no assurance that the Well, the Mandatory Well Operation, or any new wells drilled by us, will be commercially productive. If we do not achieve commercial production from the Prospect, we may be unable to recover our acquisition, leasing, drilling and development costs, in which case our business, financial condition and results of operations would be materially adversely affected.

The gas reservoir formation we are targeting, while situated in a regional trend with numerous analog field discoveries, has not been proven commercially productive within the area of our leasehold. There is no way to predict in advance of testing and drilling whether any particular location will yield oil or natural gas in sufficient quantities to recover drilling and completion costs, or to become commercially viable. The use of technologies and the study of producing fields in the same area, will not enable us to know conclusively prior to testing and drilling whether oil or natural gas will be present or, if present, whether it will be present in sufficient quantities to become commercially viable.

The cost of testing, drilling and operating any well is subject to significant risks and uncertainties, and our future drilling activities may not be successful. Under the Exploration Agreement, we are required to use commercially reasonable efforts to initiate the Mandatory Well Operation by February 15, 2027 (the "Commencement Date"), subject to certain exceptions. Our inability to achieve drilling success leading to commercial viability of our exploration opportunity would have a material adverse effect on our financial condition, results of operations and prospects. Our drilling operations may be curtailed, delayed, or cancelled as a result of a variety of factors, many of which are beyond our control, including unexpected or adverse drilling conditions, weather conditions, elevated pressure or irregularities in the geologic formation, equipment failures or accidents, shortages or delays in the availability of drilling rigs and equipment, title problems, compliance with legal and regulatory requirements, and macroeconomic conditions. If events, conditions or occurrences, whether within or beyond our control, prevent us from commencing the Mandatory Well Operation by the Commencement Date, it would result in a number of risks and challenges to our business, which may include preventing us from retaining or expanding our leasehold interests, making it more difficult to raise additional funding, and creating reputational harm for our business.

Since the Exploration Agreement covers a specific geological formation in Eastern Louisiana, and our current leasehold is concentrated within a limited geographic area centered around the Well, there is a significant risk that no commercially productive oil or natural gas reservoirs will be found or produced. We intend to expand the Prospect's acreage footprint by re-leasing expired tracts and acquiring new leases within the AMI, but there can be no assurance that we will be able to acquire such additional acreage on commercially acceptable terms, or at all. Our failure to commence the Mandatory Well Operation by the Commencement Date may negatively impact our leasing activities. In addition, we may drill or participate in new wells that are not productive, or drill wells that are productive, but that do not produce sufficient net revenues to return a profit after drilling, operating and other costs. Even if sufficient amounts of oil or natural gas exist, we may experience mechanical difficulties while drilling or completing a well, inadvertently damage the potentially productive hydrocarbon bearing formation, or experience other difficulties with extracting the resources, any of which could force us to reduce production from the well or abandon the well entirely. Further, an otherwise productive well may become uneconomical if water or other deleterious substances are encountered which impair or prevent production activities. If we are unable to achieve commercial production from the Well, or to drill or participate in new wells that are commercially productive, it would have a material adverse impact on our business, financial condition and results of operations.

We may be unable to acquire additional leases, and even if we expand our leasehold position, there is no assurance that additional acreage will result in commercially productive operations.

We are in the early stages of evaluating the Prospect, have a limited acreage footprint, have no current infrastructure, and have not established any proved reserves. Our strategy involves the expansion of the Prospect's acreage footprint by re-leasing expired tracts and acquiring new leases within the AMI. However, our leasing program depends on a number of factors, including the availability of suitable acreage, landowners' willingness to grant or renew leases on acceptable terms, prevailing market conditions, and our available capital at the time leasing decisions are made. Many of the tracts previously leased by our predecessor expired between 2021 and 2023, and there is no assurance that the former lessors will agree to re-lease their interests. If we cannot expand our leasehold, we will remain dependent on the existing approximately 3,000 net acre position centered around the Well, which may not be sufficient to support commercially viable operations. In addition, even if we are successful in acquiring additional leases, there is no assurance that the acreage will contain commercially productive formations, support economic well spacing, or produce sufficient net revenues to return a profit after drilling, operating and other costs. If we are unable to expand our acreage through our leasing program, it could prevent us from achieving commercially productive operations, which would have a material adverse impact on our business, financial condition and results of operations.

The Exploration Agreement contains provisions that reduce our net revenue interest in the Prospect and create potential conflicts of interest.

The Exploration Agreement reserves overriding royalty interests ("ORRIs") to both the Lease Manager and Cynergy Advisors, LLC ("Cynergy"), a company affiliated with Kevin Sellers, our Chief Executive Officer and one of our directors, as well as Marc Jarvis, who is also one of our directors. Although granting ORRIs to service providers is common in the industry, as a result of these ORRIs, our net revenue interest in the Prospect is approximately 75%, meaning we will not receive the full economic benefit of any oil and gas production from the Prospect. The ORRIs reduce our share of production revenues while we bear the full cost of drilling, producing, equipping, and operating the Well, as well as any future wells we elect to drill. The ORRIs payable to the Lease Manager survive its removal as lease manager. Our obligation to preserve the ORRIs in favor of the counterparties will reduce the economic benefits of the Prospect to us and our stockholders and may limit our operational flexibility.

Mr. Sellers and Mr. Jarvis, as managing members of Cynergy, have indirect material interests in the Cynergy ORRI, which creates a potential conflict of interest in decisions regarding the development, operation, and marketing of the Prospect. Although the appointments of Mr. Sellers and Mr. Jarvis were each approved by the disinterested members of our Board of Directors, there can be no assurance that such conflicts will not adversely affect our business.

We are dependent on the Lease Manager, and any failure by the Lease Manager to perform could delay operations or result in additional costs.

The Lease Manager provides critical leasing services for the Prospect, including mineral title research, oversight of leasing agents, supervision of lease broker personnel, lease-database reporting and digital mapping. Although we may remove the Lease Manager at any time for convenience, a transition to a replacement lease manager could cause delays, loss of project knowledge, and additional costs. In addition, the ORRIs payable to the Lease Manger survive its removal as lease manager.

Oil and natural gas prices are highly volatile, and our future financial performance is substantially dependent on prevailing prices of oil and natural gas.

Historically, the markets for oil and natural gas have been volatile and we expect these markets will continue to be volatile in the future. Even assuming we are able to achieve commercial production based on our drilling and exploration activities, the prices we receive for our production, and the levels of production we are able to achieve over time, will depend on numerous factors including:

- changes in global supply and demand for oil and natural gas;
- the actions of the Organization of Petroleum Exporting Countries;
- the price and quantity of imports of foreign oil and natural gas;
- macroeconomic and political conditions and events, including wars, outbreaks of hostilities, embargoes, and tariffs affecting oil-producing activity;
- the level of global oil and natural gas exploration and production activity;
- the level of global oil and natural gas inventories;
- weather conditions;
- technological advances affecting energy consumption;
- the price and availability of alternative fuels; and
- market concerns about global warming or changes in governmental policies and regulations due to climate change initiatives.

Our strategy involves achieving commercial production from the Prospect at levels that will allow us to generate net revenues sufficient for us to recover our acquisition, leasing, drilling and development costs, and to realize and sustain profitable operations. Volatile oil and natural gas prices make it difficult to estimate the level of revenue expected to be achieved based on a projected level of production, which in turn makes it difficult to forecast financial results and prepare accurate budgets. A decline in oil and natural gas prices relative to our forecasts would reduce our profitability and potentially result in net losses. A decline in prices would also reduce our cash flow from operations, which may require us to reduce capital expenditures, and limit our ability to borrow money or raise additional capital. In addition, a decline in prices may require us to write-down the carrying value of our assets. As a result, a decline in the prices of oil or natural gas, whether relative to historical prices or to our internal projections, could adversely affect our financial condition, operating results and cash flows.

We are subject to complex federal, state, local and other laws and regulations that could adversely affect the timing, cost, manner or feasibility of conducting our operations and expose us to significant costs and liabilities.

Our leasing and operation of oil and natural gas properties in Eastern Louisiana are subject to complex and stringent federal, state, and local laws and regulations. In order to conduct our operations in compliance with these laws and regulations, we must obtain and maintain numerous permits, approvals and certificates from various federal, state and local governmental authorities. We may experience delays in receiving such permits, approvals and certificates. Delays in permitting could result in delays in execution of our drilling and development program, including our failure to commence the Mandatory Well Operation by the Commencement Date. We may incur substantial costs in order to maintain compliance with existing laws and regulations. In addition, our costs of compliance may increase if existing laws and regulations are revised or reinterpreted, or if new laws and regulations become applicable to our operations. Failure to comply with laws and regulations applicable to our operations, including any evolving interpretation and enforcement by governmental authorities, could have a material adverse effect on our business, financial condition and results of operations.

We rely on a third-party contract operator for certain operational functions, and our business could be adversely affected by the inability or failure of the operator to perform its obligations under the agreement.

We have engaged a third-party contract operator to perform certain operational functions, including well planning, engineering, regulatory filings, contracting, and day-to-day field operations. Our reliance on this third party exposes us to risks associated with its inability or failure to perform its obligations under the agreement, including failure to maintain adequate insurance coverage, comply with applicable health, safety, and environmental requirements, or conduct operations in accordance with industry standards. Any such failure could result in regulatory enforcement actions, delays in our drilling and exploration activities, or damage to the Well or surrounding properties for which we may be held responsible. In addition, the operator is permitted to terminate the agreement for any reason upon 90 days' written notice to us, and any such termination would require us to identify and retain a new operator, which could result in unanticipated delays in our operations and unexpected costs associated with the transition. Furthermore, our indemnification obligations under the agreement may expose us to significant liabilities arising from the operator's acts or omissions, which obligations survive termination of the agreement. If any of these risks are realized, it could have a material adverse effect on our business, financial condition, and results of operations.

We face significant competition from larger companies in the oil and gas industry.

The oil and gas industry is highly competitive. We compete with larger and better-capitalized companies for acreage, leases, financing, drilling rigs, equipment, personnel, technical expertise and other resources. Many of our competitors have substantially greater financial, technical and operational resources, more established relationships with landowners and service providers, and greater economies of scale. Competition may make it more difficult or costly for us to develop the Prospect, acquire or retain leases, obtain services, finance our activities, or market any production.

Risks Relating to our Private Placement

The issuance of shares of our common stock upon the conversion or exercise of the securities issued or issuable in our private placement will cause substantial dilution to our existing stockholders.

On August 21, 2026, we entered into the Purchase Agreement, as subsequently amended on October 22, 2026, with certain investors (the "Purchasers"), pursuant to which we issued $9,000,000 in aggregate principal amount of the Convertible Debentures and August 2026 Warrants to purchase up to 2,117,219 shares of our common stock. Subject to stockholder approval, the Convertible Debentures will initially be convertible into up to 2,117,219 shares of our common stock, based on an initial conversion price of $4.25 per share. Prior to obtaining stockholder approval, the Convertible Debentures will be convertible into a number of shares equal to the Exchange Cap. The issuance of shares upon conversion of the Convertible Debentures will cause immediate dilution to our existing stockholders.

In addition, the Purchase Agreement permits the Purchasers to purchase the AIR Convertible Debentures in an aggregate principal amount of up to $91,000,000 at any time during the 18-month period following the Effective Date, as that term is defined in the Purchase Agreement, which will be convertible into shares of our common stock. The conversion price for the AIR Convertible Debentures may be set at prices significantly below the initial conversion price of the Convertible Debentures and will be subject to adjustment pursuant to the anti-dilution provisions, subject to a floor price. The issuance of shares upon conversion of the AIR Convertible Debentures will cause additional dilution to our existing stockholders. As the value of the AIR Convertible Debentures purchased pursuant to the Additional Investment Right increases, and the conversion price of the AIR Convertible Debentures decreases (subject to the floor price), the level of dilution to our existing stockholders will increase significantly.

The combination of the issuance of shares of common stock upon (i) conversion of the Convertible Debentures, (ii) exercise of the August 2026 Warrants, and (iii) conversion of the AIR Convertible Debentures (collectively, the "Conversion Shares"), will have a significant dilutive impact on our existing stockholders. In addition, the subsequent sale of the Conversion Shares in the public market, or the perception that such sales may occur, could adversely affect the trading price of our common stock.

Our ability to receive additional funding under the Additional Investment Right is subject to the sole discretion of the Purchasers, and if the Purchasers do not exercise the Additional Investment Right, our ability to raise capital may be materially limited.

Pursuant to the Additional Investment Right, the Purchasers have the right, but not the obligation, to purchase the AIR Convertible Debentures in an aggregate principal amount of up to $91,000,000, which represents a significant capital raising opportunity for us. However, the issuance of shares of common stock upon conversion of the Convertible Debentures and the AIR Convertible Debentures is initially subject to the Exchange Cap. Issuance of shares of common stock upon conversion of the Convertible Debentures and the AIR Convertible Debentures in excess of the Exchange Cap requires the approval of our stockholders and there can be no assurance that our stockholders will grant such approval. If our stockholders do not approve the issuance of shares in excess of the Exchange Cap, the Purchasers may be unwilling to exercise the Additional Investment Right in whole or in part, in which case our ability to receive additional funding upon issuance of the AIR Convertible Debentures may be prevented or limited.

Even if we obtain stockholder approval to issue shares in excess of the Exchange Cap, the Purchasers are not obligated to exercise the Additional Investment Right and may elect not to invest any additional funds. Each Purchaser's decision to exercise the Additional Investment Right (and the principal amount of the AIR Convertible Debentures it elects to purchase even if exercised) is within its sole discretion and may depend on factors beyond our control, including our recent financial and operating results, the market price of our common stock, the results of our drilling and exploration activities, prevailing oil and natural gas prices, and general market conditions. In addition, because the conversion price of the AIR Convertible Debentures issuable upon exercise of the Additional Investment Right is subject to a floor price, a decline in the trading price of our common stock may make exercise economically unattractive to the Purchasers. Accordingly, there can be no assurance we will receive all or any portion of the funding potentially available to us under the Additional Investment Right.

We require substantial capital to fund our oil and gas exploration opportunity, including commitments under our leasing program, commencement of the Mandatory Well Operation, and further exploration and development of the Prospect. If the Purchasers do not exercise the Additional Investment Right, which may occur as a result of our failure to obtain stockholder approval to issue shares in excess of the Exchange Cap, a decline in the trading price of our common stock, or for other reasons, our ability to obtain alternative financing may be materially limited. If we cannot obtain sufficient capital, we may be required to delay, curtail, or abandon our drilling and exploration activities, or change our business strategy altogether, which would have a material adverse effect on our business, financial condition, and results of operations.

The terms of the private placement may have the effect of preventing, deterring, or increasing the cost of, our future capital raising activities.

The Purchase Agreement includes a number of restrictive covenants that limit our ability to raise additional capital without the consent of the Purchasers. For example, so long as at least $2,250,000 in aggregate principal amount of the Convertible Debentures remains outstanding, we are restricted from incurring additional indebtedness and creating liens, subject to certain exceptions. In addition, we are prohibited from effecting any Variable Rate Transaction (as defined in the Purchase Agreement) for a period of time following the date of the Purchase Agreement, subject to certain exceptions. In addition, each Purchaser may participate in up to 33% of certain subsequent issuances of our common stock or common stock equivalents for a period of time following the date of the Purchase Agreement. Further, the conversion price of the Convertible Debentures and the AIR Convertible Debentures, as well as the exercise price of the August 2026 Warrants, is subject to reduction if we issue securities at an effective price per share lower than the then-applicable conversion price or exercise price, subject to certain exceptions, which may make it economically unattractive for us to raise capital at prices below the current conversion price or exercise price. These provisions, individually or in the aggregate, may have the effect of preventing, deterring, or increasing the cost of, our future capital raising activities. If we are unable to obtain financing on acceptable terms, or at all, it would have a material adverse effect on our business, financial condition, and results of operations.

The conversion price of the Convertible Debentures and the AIR Convertible Debentures, and the exercise price of the August 2026 Warrants, are subject to adjustment, which may result in additional dilution to our existing stockholders.

The conversion price of the Convertible Debentures and the AIR Convertible Debentures, and the exercise price of the August 2026 Warrants, are subject to adjustment upon the occurrence of certain events, including stock splits, stock dividends, combinations, and reclassifications. In addition, if we issue or sell (or are deemed to issue or sell) shares of common stock or common stock equivalents (including the AIR Convertible Debentures) at an effective price per share lower than the then-applicable conversion price or exercise price, the conversion price of the Convertible Debentures, and the exercise price of the August 2026 Warrants, will be reduced to such lower price, subject to a floor price. As a result, if we issue securities at a price below the current conversion price or exercise price, whether in connection with an exercise by the Purchasers of the Additional Investment Right, a future financing, acquisition, or otherwise, it may trigger an adjustment that increases the number of shares issuable upon conversion of the Convertible Debentures, and reduces the exercise price of the August 2026 Warrants, resulting in additional dilution to our existing stockholders beyond that resulting from such future issuance. These provisions may also make it more difficult or expensive for us to raise additional capital at prices below the then-current conversion price or exercise price. If we are unable to obtain financing on acceptable terms, or at all, it would have a material adverse effect on our business, financial condition, and results of operations.

The Convertible Debentures and the AIR Convertible Debentures will bear interest, and we may be unable to pay interest when due or to repay the principal amount at maturity.

The Convertible Debentures bear interest at a rate of 8% per annum, payable quarterly in arrears, commencing on the one year anniversary of the issuance date, and the AIR Convertible Debentures will bear interest on the same terms upon their issuance. If we do not obtain stockholder approval to issue shares of common stock in excess of the Exchange Cap, a portion of the Convertible Debentures (and all of the AIR Convertible Debentures) will not be convertible into common stock and any remaining unconverted portion will remain outstanding as unsecured debt until their maturity on August 21, 2029. If the Purchasers do not elect to convert the Convertible Debentures prior to maturity, whether as a result of our failure to obtain stockholder approval or otherwise, we will be required to repay up to $9,000,000 in principal amount, together with any accrued and unpaid interest. To the extent any AIR Convertible Debentures are issued, we will also be required to repay the principal amount of the AIR Convertible Debentures, together with any accrued and unpaid interest We may not have sufficient funds available to make interest payments when due, or to repay the remaining principal amount at maturity. Our failure to pay interest when due, or to repay the remaining principal amount at maturity, would constitute an event of default under the Convertible Debentures and the AIR Convertible Debentures, as applicable, which could result in acceleration of the outstanding amounts.

Events of default under the Convertible Debentures or the AIR Convertible Debentures could result in acceleration of amounts owed and other remedies that could materially harm our business.

The Convertible Debentures contain, and the AIR Convertible Debentures will contain, numerous events of default, including failure to pay principal or interest when due, failure to timely deliver shares upon conversion, failure to maintain the listing of our common stock, breaches of certain covenants, bankruptcy or insolvency, cross-defaults, and the occurrence of certain other events. Upon an event of default, at the election of the holder, all outstanding amounts under the Convertible Debentures and AIR Convertible Debentures, as applicable, may become immediately due and payable. We may not have sufficient funds to repay the accelerated amounts upon an event of default, which would have a material adverse effect on our business, financial condition, and results of operations.

The sale of a substantial number of shares of our common stock in the public market, or the perception that such sales could occur, could cause the market price of our common stock to decline significantly

The Purchasers have registration rights under the Registration Rights Agreement that require us to register the resale of the Conversion Shares. Once the registration statement is declared effective, the Purchasers will be able to resell the Conversion Shares without restriction (subject to beneficial ownership limitations). The sale of a substantial number of shares of our common stock in the public market, or the perception that such sales could occur, could cause the market price of our common stock to decline significantly. Even if the Purchasers do not sell their shares immediately, the fact that a significant number of shares are eligible for resale may create an "overhang" that reduces the trading price of our common stock.

USE OF PROCEEDS

We will retain broad discretion over the use of the net proceeds from the sale of the securities offered hereby. Except as described in any applicable prospectus supplement or in any free writing prospectuses that we may authorize to be provided to you in connection with a specific offering, we currently intend to use the net proceeds from the sale of the securities offered hereby for working capital and other general corporate purposes, including the funding of our capital commitments pursuant to the Exploration Agreement. We may also use a portion of the net proceeds to invest in or acquire assets, businesses or technologies that we believe are complementary to our own, although we have no current plans, commitments or agreements with respect to any acquisitions as of the date of this prospectus. We will set forth in the applicable prospectus supplement or free writing prospectus our intended use for the net proceeds received from the sale of any securities sold pursuant to the prospectus supplement or free writing prospectus.

GENERAL DESCRIPTION OF SECURITIES

We may offer shares of common stock or preferred stock, various series of senior or subordinated debt securities or warrants to purchase any of the foregoing, in each case from time to time under this prospectus, together with any applicable prospectus supplement, at prices and on terms to be determined by market conditions at the time of offering. This prospectus provides you with a general description of the securities we may offer. At the time we offer a particular type or series of securities, we will provide an applicable prospectus supplement describing the specific amounts, prices and other important terms of the securities, including, to the extent applicable:

- designation or classification;
- aggregate principal amount or aggregate offering price;
- voting or other rights;
- rates and times of payment of interest, dividends or other payments;
- liquidation preference;
- original issue discount;
- maturity;
- ranking;
- restrictive covenants;
- redemption, conversion, exercise, exchange, settlement or sinking fund terms, including prices or rates, and any provisions for changes to or adjustments in such prices or rates and in the securities or other property receivable upon conversion, exercise, exchange or settlement;
- any securities exchange or market listing arrangements; and
- important U.S. federal income tax considerations.

This prospectus may not be used to offer or sell securities unless accompanied by an applicable prospectus supplement. The applicable prospectus supplement may add, update or change information contained in this prospectus or in documents incorporated by reference in this prospectus. You should read the applicable prospectus supplement related to any securities being offered.

We may sell the securities to or through underwriters, dealers or agents, directly to purchasers, or through a combination of any of these methods of sale, or as otherwise set forth under the section entitled "*Plan of Distribution*". We and our underwriters, dealers or agents reserve the right to accept or reject all or part of any proposed purchase of securities. If we do offer securities through underwriters or agents, we will include in the applicable prospectus supplement (i) the names of the underwriters or agents and applicable fees, discounts and commissions to be paid to them; (ii) details regarding over-allotment options, if any; and (iii) net proceeds to us.

The following descriptions are not complete and may not contain all the information you should consider before investing in any securities we may offer hereunder; they are summarized from, and qualified by reference to, our articles of incorporation, bylaws and the other documents referred to in herein, all of which are or will be publicly filed with the SEC, as applicable. See the section entitled "*Where You Can Find More Information*."

DESCRIPTION OF CAPITAL STOCK

The following is a summary of all material characteristics of the capital stock of Expion Energy, Inc. as set forth in our Articles of Incorporation, our Bylaws, and the applicable provisions of the Nevada Revised Statutes (the "NRS"). The summary does not purport to be complete and is qualified in its entirety by reference to our Articles and Bylaws, copies of which have been filed as exhibits to our public filings with the SEC, and applicable provisions of the NRS. References to "we," "our," "us," or the "Company" refer to Expion Energy, Inc.

Reverse Stock Split

On July 21, 2026, we effectuated a 1-for-12 reverse stock split (the "Reverse Stock Split") and a proportionate decrease in the number of authorized shares of common stock from 200,000,000 to 16,666,666 (the "Authorized Share Decrease"). Pursuant to Section 78.207 of the NRS, no stockholder approval of the Reverse Stock Split or Authorized Share Decrease was required. On July 16, 2026, we filed a certificate of change (the "Certificate of Change") to the Articles with the Secretary of State of Nevada in accordance with Section 78.209 of the NRS to amend the Articles to effect the Reverse Stock Split and Authorized Share Decrease, effective as of 12:01 a.m. Eastern time on July 21, 2026.

No fractional shares of our common stock were issued as a result of the Reverse Stock Split and instead each holder of our common stock who was otherwise entitled to receive a fractional share as a result of the Reverse Stock Split received one whole share of our common stock in lieu of such fractional share. In addition, the Reverse Stock Split effected a reduction in the number of shares issuable pursuant to our equity awards, warrants and non-plan options outstanding as of the Effective Date of the Reverse Stock Split, and a corresponding increase in the respective exercise prices, conversion prices, reset prices and the like thereunder.

Unless otherwise noted, all references to shares and per share amounts for all periods presented in this prospectus have been adjusted retrospectively, to reflect the impact of the Reverse Stock Split.

Authorized Capital Stock

Our authorized capital stock consists of 16,666,666 shares of common stock, par value $0.001 per share, and 20,000,000 shares of preferred stock, par value $0.001 per share.

Common Stock

The holders of our common stock are entitled to one vote for each share held on all matters submitted to a vote of the stockholders. The holders of our common stock do not have any cumulative voting rights. Holders of our common stock are entitled to receive ratably any dividends declared by our board of directors out of funds legally available for that purpose, subject to any preferential dividend rights of any outstanding shares of preferred stock. Our common stock has no preemptive rights, conversion rights or other subscription rights or redemption or sinking fund provisions. In the event of our liquidation, dissolution or winding up, holders of our common stock will be entitled to share ratably in all assets remaining after payment of all debts and other liabilities and any liquidation preference of any outstanding preferred stock.

As of October 22, 2026, there were 1,012,498 shares of our common stock issued and outstanding.

Preferred Stock

We do not currently have an established class or series of preferred stock and no shares of our preferred stock have been issued.

Convertible Debentures

On August 21, 2026, we entered into the Purchase Agreement, which provided for the issuance and sale of: (i) Convertible Debentures, in an aggregate principal amount of $9,000,000, and (ii) the August 2026 Warrants to purchase up to 2,117,219 shares of common stock.

The Convertible Debentures are our unsecured direct debt obligations and will mature on August 21, 2029. Interest accrues at the Applicable Federal Rate initially, increasing to 8% per annum commencing on the first anniversary of the original issuance date, and is payable quarterly in cash. In the event of default, the interest rate increases by 4% per annum.

Prior to obtaining stockholder approval, the Convertible Debentures will be convertible into a number of shares equal to the Exchange Cap. Subject to stockholder approval, the Convertible Debentures will initially be convertible into up to 2,117,219 shares of our common stock, based on an initial conversion price of $4.25 per share.

The Purchase Agreement permits the Purchasers to purchase the AIR Convertible Debentures in an aggregate principal amount of up to $91,000,000 at any time during the 18-month period following the Effective Date, as that term is defined in the Purchase Agreement. which will be convertible into shares of our common stock.

The Company may not prepay a Convertible Debentures without the prior written consent of the holder thereof.

Warrants

November 2021 Warrants

On November 22, 2021, we issued warrants to purchase 476 shares of common stock at an exercise price of $3,984 per share (the "November 2021 Warrants"), and an expiration date of November 22, 2031. The November 2021 Warrants are subject to adjustment upon the occurrence certain events. As of October 22, 2026, November 2021 Warrants to purchase an aggregate of 437 shares of common stock remained outstanding.

Underwriter Warrants

Concurrent with the closing of our initial public offering, we issued warrants to purchase an aggregate of 138 shares of our common stock to Alexander Capital LP and Paulson Investment Company LLC at an exercise price of $10,920 per share, and an expiration date of March 31, 2027 (the "Underwriter Warrants"). On May 2, 2024, the Company entered into amendments to certain of the Underwriter Warrants that had the effect of reducing the exercise price from $10,920 to $5,400 per share for 77 of the Underwriter Warrants, while 61 of the Underwriter Warrants continue to have an exercise price of $10,920 per share. The Underwriter Warrants are subject to adjustment upon the occurrence of certain events. As of October 22, 2026, Underwriter Warrants to purchase an aggregate of 61 shares of our common stock at an exercise price of $10,920 per share remained outstanding, and Underwriter Warrants to purchase an aggregate of 77 shares of our common stock at an exercise price of $5,400 per share remained outstanding.

August 2024 Warrants

On August 8, 2024, we sold in a public offering, (i) 33,402,000 common units (pre-Reverse Stock Split), each consisting of one share of common stock, two Series A warrants each to purchase one share of our common stock (each, a "Series A Warrant" and collectively, the "Series A Warrants") and one Series B warrant to purchase such number of shares of our common stock as determined in the Series B warrant (each, a "Series B Warrant" and collectively, the "Series B Warrants"), and (ii) 16,598,000 (pre-Reverse Stock Split) pre-funded units, each consisting of one pre-funded warrants to purchase one share of our common stock (each, a "Pre-Funded Warrant" and collectively, the "Pre-Funded Warrants"), two Series A Warrants, and one Series B Warrant.

Each Series A Warrant became exercisable on September 30, 2024, and will expire five years from such date. Each Series A Warrant was initially exercisable at an exercise price of $288 per share of our common stock. The exercise price of the Series A Warrants was subsequently reduced to $62.472 consistent with the terms of the Series A Warrants.

On August 14, 2025, we entered into inducement offer letter agreements with certain holders of the Series A Warrants, which reduced the exercise price from $62.472 to $15.72 per share. On August 22, 2025, the exercise price of all of the outstanding Series A Warrants was reduced from $62.472 per share to $15.72 per share. As of October 22, 2026, Series A Warrants to purchase an aggregate of 75,172 shares of our common stock remained outstanding.

Each Series B Warrant was exercisable immediately upon issuance at an exercise price of $1.20 per share. As of October 22, 2026, Series B Warrants to purchase an aggregate of 178 shares of our common stock remained outstanding.

Each Pre-Funded Warrant was exercisable immediately upon issuance at an exercise price of $0.001 per share (pre-Reverse Stock Split). As of October 22, 2026, all Pre-Funded Warrants have been exercised.

January 2025 Warrants

On January 3, 2025, we sold in a public offering (i) 39,516 shares of our common stock, (ii) pre-funded warrants (the "January 2025 Pre-Funded Warrants") to purchase 47,849 shares of our common stock, and (iii) warrants to purchase 87,366 shares of our common stock at an exercise price of $28.32 per share (the "January 2025 Warrants"). The January 2025 Pre-Funded Warrants were all exercised immediately upon issuance.

On August 14, 2025, we entered into inducement offer letter agreements with certain holders of the January 2025 Warrants, which reduced the exercise price from $28.32 to $15.72 per share. On August 22, 2025, the exercise price of all of the outstanding January 2025 Warrants was reduced from $28.32 to $15.72 per share. As of October 22, 2026, January 2025 Warrants to purchase an aggregate of 37,433 shares of our common stock remained outstanding.

October 2025 Warrants

On October 16, 2025, we sold in a private placement (i) 38,464 shares of our common stock, and (ii) a pre-funded warrant (the "October 2025 Warrant") to purchase up to 12,042 shares of our common stock. The October 2025 Warrant is exercisable immediately upon issuance for cash or on a cashless basis at the discretion of the holder. The number of pre-funded warrant shares that may be issuable is subject to adjustment for stock splits, recapitalizations, and reorganizations. The holder of the October 2025 Warrant does not have any voting rights, but does have the right to participate in any dividends or distributions made by the Company. As of October 22, 2026, October 2025 Warrants to purchase an aggregate of 2,912 shares of our common stock remained outstanding.

August 2026 Warrants

The August 2026 Warrants are exercisable for an aggregate of up to 2,117,219 shares of Common Stock and have an initial exercise price per share of $4.25. The August 2026 Warrants have a five-year term and include a cashless exercise feature if no effective registration statement is available at the time of exercise.

Equity Incentive Plans

As of October 22, 2026, we had adopted two stock-based compensation plans, the 2021 Incentive Award Plan (the "2021 Plan") and the 2021 Employee Stock Purchase Plan (the "2021 ESPP").

2021 Incentive Award Plan

The purpose of the 2021 Plan is to enhance our ability to attract, retain, and motivate persons who make (or are expected to make) important contributions to the Company by providing these individuals with equity ownership opportunities. Various stock-based awards may be granted under the 2021 Plan to eligible employees, consultants, and non-employee directors, including options and restricted stock units ("RSUs'). The number of shares issued under the 2021 Plan is subject to an initial limit and is adjusted annually pursuant to an evergreen provision.

As of October 22, 2026, awards covering an aggregate of 113,485 shares were eligible to be issued under the 2021 Plan, of which 17,896 shares underlying options and 95,627 shares underlying RSUs had been granted.

2021 Employee Stock Purchase Plan

The purpose of the 2021 ESPP is to assist our eligible employees in acquiring stock ownership in the Company and to help such employees provide for their future security and to encourage them to remain in the employment of the Company. We may make one or more offerings under the 2021 ESPP. The duration and timing of each offering period may be established or changed by our board of directors, but in no event may an offering period exceed 27 months and in no event may the purchase period for the option exceed the duration of the offering period under which it is established. Option awards are generally granted with an exercise price equal to 85% of the lesser of the fair market value of a share on (a) the applicable grant date and (b) the applicable exercise date, or such other price as designated by the administrator.

No shares have been issued under the 2021 ESPP.

Anti-Takeover Effects of Certain Provisions of the NRS, and our Articles and Bylaws

The relevant provisions of the NRS and our Articles and Bylaws may have the effect of delaying, deferring, or preventing another party from acquiring control of the company. These provisions may discourage and prevent coercive takeover practices and inadequate takeover bids.

NRS Provisions

The NRS contain a provision governing the "acquisition of controlling interest." This law provides generally that any person or entity that acquires 20% or more of the outstanding voting shares of a publicly-held Nevada corporation in the secondary public or private market may be denied voting rights with respect to the acquired shares, unless a majority of the disinterested stockholders of the corporation elects to restore such voting rights in whole or in part. The control share acquisition act provides that a person or entity acquires "control shares" whenever it acquires shares that, but for the operation of the control share acquisition act, would bring its voting power within any of the following three ranges: 20 to 33-1/3%; 33-1/3 to 50%; or more than 50%.

A "control share acquisition" is generally defined as the direct or indirect acquisition of either ownership or voting power associated with issued and outstanding control shares. The stockholders or board of directors of a corporation may elect to exempt the stock of the corporation from the provisions of the control share acquisition act through adoption of a provision to that effect in the articles of incorporation or bylaws. Our Articles and Bylaws do not exempt our common stock from the control share acquisition act.

The control share acquisition act is applicable only to shares of "issuing corporations" as defined pursuant to the NRS. An issuing corporation is a Nevada corporation which: (a) has 200 or more stockholders, with at least 100 of such stockholders being both stockholders of record and residents of Nevada, and (b) does business in Nevada directly or through an affiliated corporation. At this time, we do not believe we have 100 stockholders of record resident of Nevada, and we do not conduct business in Nevada directly. Therefore, we do not believe the provisions of the control share acquisition act apply to acquisitions of our shares and will not until such time as these requirements have been met. At such time as they may apply, the provisions of the control share acquisition act may discourage companies or persons interested in acquiring a significant interest in or control of us, regardless of whether such acquisition may be in the best interest of our stockholders.

The Nevada "combination with interested stockholders statute" may also have an effect of delaying or making it more difficult to effect a change in control of us. This statute prevents an "interested stockholder" and a domestic Nevada corporation from entering into a "combination," unless certain conditions are met. The statute defines "combination" to include any merger or consolidation with an "interested stockholder," or any sale, lease, exchange, mortgage, pledge, transfer, or other disposition, in one transaction or a series of transactions with an "interested stockholder" having (a) an aggregate market value equal to 5% or more of the aggregate market value of the assets of the corporation, (b) an aggregate market value equal to 5% or more of the aggregate market value of all outstanding shares of the corporation, or (c) representing 10% or more of the earning power or net income of the corporation.

An "interested stockholder" means the beneficial owner of 10% or more of the voting shares of a resident domestic corporation, or an affiliate or associate thereof. A corporation affected by the statute may not engage in a "combination" within three years after the interested stockholder acquires its shares unless the combination or purchase is approved by our board of directors before the interested stockholder acquired such shares. If approval is not obtained, then after the expiration of the three-year period, the business combination may be consummated with the approval of our board of directors or a majority of the voting power held by disinterested stockholders, or if the consideration to be paid by the interested stockholder is at least equal to the highest of: (a) the highest price per share paid by the interested stockholder within the three years immediately preceding the date of the announcement of the combination or in the transaction in which he became an interested stockholder, whichever is higher, (b) the market value per common share on the date of announcement of the combination or the date the interested stockholder acquired the shares, whichever is higher, or (c) if higher for the holders of preferred stock, the highest liquidation value.

Board Composition; Election of Directors

Our Articles and Bylaws provide that we shall have at least one and not more than 11 directors. The number of directors within this range may be established and changed from time to time by resolution adopted by our board of directors. Each director shall hold office until his or her successor shall be elected or appointed and qualified or until his or her earlier death, retirement, disqualification, resignation, or removal. The Bylaws provide for the annual election of directors. Any vacancies on our board of directors, and newly created directorships, may be filled by a majority vote of the directors.

Removal of Directors

Except as otherwise provided in the NRS, any director may be removed from office with or without cause by the affirmative vote of the holders of not less than two-thirds (2/3) of the voting power of the outstanding capital stock. In addition, a majority of the directors may declare vacant the office of a director who has been declared incompetent by an order of a court of competent jurisdiction, convicted of a felony, or found to be unsuitable to serve as a director.

No Written Consent of Stockholders

No action shall be taken by our stockholders except at an annual or special meeting of stockholders called and noticed in the manner required by the Bylaws. Our stockholders are not permitted to take action by written consent.

Special Meetings of Stockholders

Special meetings of our stockholders may only be called by the Chairman of our board of directors or the Chief Executive Officer, and shall be called by the Secretary upon the written request of at least a majority of the authorized number of directors.

No Cumulative Voting

The NRS requires cumulative voting rights to be provided for within the articles of incorporation. Our Articles are silent as to cumulative voting so our stockholders are not permitted to cumulate votes with respect to the election of directors.

Amendment of the Charter

In addition to any vote required by the NRS, any amendment of any provision of the Articles must be approved by (a) a majority of the members of our board of directors, and (b) depending on the Article to be amended, by either (i) the affirmative vote of the holders of a majority of the voting power of our outstanding capital stock, or (ii) the affirmative vote of the holders of at least two-thirds of the voting power of our outstanding capital stock.

Advance Notice Provision

At any annual or special meeting of stockholders, proposals by stockholders and director nominations by stockholders will be considered only if advance notice has been provided by the stockholder as required by the Bylaws. The Bylaws contain specific requirements for the information that must be provided by a stockholder in connection with delivering notice of any such proposals. Notice must generally be delivered to the Company not less than 60 nor more than 90 days prior to the day of the applicable meeting.

Exclusive Forum Provision

Our Articles include a mandatory forum provision which provides that, to the fullest extent permitted by law, the Nevada Eighth Judicial District of Clark County, Nevada shall be the sole and exclusive forum for: (a) any derivative action or proceeding brought in the name or right of the Company or on its behalf, (b) any action asserting a claim for breach of any fiduciary duty owed by any director, officer, employee or agent of the Company to the Company or the Company's stockholders, (c) any action arising or asserting a claim arising pursuant to certain provisions of the NRS, or any provision of the Articles or Bylaws, (d) any action to interpret, apply, enforce, or determine the validity of the Articles or Bylaws or (e) any action asserting a claim governed by the internal affairs doctrine.

This exclusive forum provision would not apply to suits brought to enforce any liability or duty created by the Securities Act or the Exchange Act, or any other claim for which federal courts have exclusive jurisdiction. To the extent that any such claims may be based upon federal law, the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act, or the rules and regulations thereunder. Furthermore, the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act, or the rules and regulations thereunder, and would preempt the exclusive forum provisions in our Articles with respect to such matters.

Exchange Act Registration

The common stock is the only class of our securities registered under Section 12 of the Exchange Act.

Stock Exchange Listing

Our common stock is listed for trading on The Nasdaq Capital Market under the symbol "XPON".

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Pacific Stock Transfer Company. The address for Pacific Stock Transfer is 6725 Via Austi Parkway, Suite 300, Las Vegas, Nevada 89119, and the telephone number is (800) 785-7782.

DESCRIPTION OF DEBT SECURITIES

We may issue debt securities from time to time, in one or more series, as either senior or subordinated debt or as senior or subordinated convertible debt. While the terms we have summarized below will apply generally to any debt securities that we may offer under this prospectus, we will describe the particular terms of any debt securities that we may offer in more detail in the applicable prospectus supplement. The terms of any debt securities offered under a prospectus supplement may differ from the terms described below. Unless the context requires otherwise, whenever we refer to the indenture, we also are referring to any supplemental indentures that specify the terms of a particular series of debt securities.

We will issue the debt securities under the indenture that we will enter into with the trustee named in the indenture. The indenture will be qualified under the Trust Indenture Act of 1939, as amended, or the Trust Indenture Act. We have filed the form of indenture as an exhibit to the registration statement of which this prospectus is a part, and supplemental indentures and forms of debt securities containing the terms of the debt securities being offered will be filed as exhibits to the registration statement of which this prospectus is a part or will be incorporated by reference from reports that we file with the SEC.

The following summary of material provisions of the debt securities and the indenture is subject to, and qualified in its entirety by reference to, all of the provisions of the indenture applicable to a particular series of debt securities. We urge you to read the applicable prospectus supplements and any related free writing prospectuses related to the debt securities that we may offer under this prospectus, as well as the complete indenture that contains the terms of the debt securities.

General

The indenture does not limit the amount of debt securities that we may issue. It provides that we may issue debt securities up to the principal amount that we may authorize and that the debt securities may be in any currency or currency unit that we may designate. Except for the limitations on consolidation, merger and sale of all or substantially all of our assets contained in the indenture, the terms of the indenture do not contain any covenants or other provisions designed to give holders of any debt securities protection against changes in our operations, financial condition or transactions involving us.

We will describe in the applicable prospectus supplement the terms of the series of debt securities being offered, including:

- the title of the series of debt securities;
- any limit upon the aggregate principal amount that may be issued;
- the maturity date or dates;
- the form of the debt securities of the series;
- the applicability of any guarantees;
- whether or not the debt securities will be secured or unsecured, and the terms of any secured debt;
- whether the debt securities rank as senior debt, senior subordinated debt, subordinated debt or any combination thereof, and the terms of any subordination;
- if the price (expressed as a percentage of the aggregate principal amount thereof) at which such debt securities will be issued is a price other than the principal amount thereof, the portion of the principal amount thereof payable upon declaration of acceleration of the maturity thereof, or if applicable, the portion of the principal amount of such debt securities that is convertible into another security or the method by which any such portion shall be determined;
- the interest rate or rates, which may be fixed or variable, or the method for determining the rate and the date interest will begin to accrue, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining such dates;
- our right, if any, to defer payment of interest and the maximum length of any such deferral period;
- if applicable, the date or dates after which, or the period or periods during which, and the price or prices at which, we may, at our option, redeem the series of debt securities pursuant to any optional or provisional redemption provisions and the terms of those redemption provisions;

- the date or dates, if any, on which, and the price or prices at which we are obligated, pursuant to any mandatory sinking fund or analogous fund provisions or otherwise, to redeem, or at the holder's option to purchase, the series of debt securities and the currency or currency unit in which the debt securities are payable;
- the denominations in which we will issue the series of debt securities, if other than denominations of $1,000 and any integral multiple thereof;
- any and all terms, if applicable, relating to any auction or remarketing of the debt securities of that series and any security for our obligations with respect to such debt securities and any other terms which may be advisable in connection with the marketing of debt securities of that series;
- whether the debt securities of the series shall be issued in whole or in part in the form of a global security or securities;
- the terms and conditions, if any, upon which such global security or securities may be exchanged in whole or in part for other individual securities; and the depositary for such global security or securities;
- if applicable, the provisions relating to conversion or exchange of any debt securities of the series and the terms and conditions upon which such debt securities will be so convertible or exchangeable, including the conversion or exchange price, as applicable, or how it will be calculated and may be adjusted, any mandatory or optional (at our option or the holders' option) conversion or exchange features, the applicable conversion or exchange period and the manner of settlement for any conversion or exchange;
- if other than the full principal amount thereof, the portion of the principal amount of debt securities of the series which shall be payable upon declaration of acceleration of the maturity thereof;
- additions to or changes in the covenants applicable to the particular debt securities being issued, including, among others, the consolidation, merger or sale covenant;
- additions to or changes in the events of default with respect to the securities and any change in the right of the trustee or the holders to declare the principal, premium, if any, and interest, if any, with respect to such securities to be due and payable;
- additions to or changes in or deletions of the provisions relating to covenant defeasance and legal defeasance;
- additions to or changes in the provisions relating to satisfaction and discharge of the indenture;
- additions to or changes in the provisions relating to the modification of the indenture both with and without the consent of holders of debt securities issued under the indenture;
- the currency of payment of debt securities if other than U.S. dollars and the manner of determining the equivalent amount in U.S. dollars;
- whether interest will be payable in cash or additional debt securities at our or the holders' option and the terms and conditions upon which the election may be made;
- the terms and conditions, if any, upon which we will pay amounts in addition to the stated interest, premium, if any and principal amounts of the debt securities of the series to any holder that is not a "United States person" for federal tax purposes;
- any restrictions on transfer, sale or assignment of the debt securities of the series; and
- any other specific terms, preferences, rights or limitations of, or restrictions on, the debt securities, any other additions or changes in the provisions of the indenture, and any terms that may be required by us or advisable under applicable laws or regulations.

We may issue the debt securities issued under the indenture as "discount securities," which means they may be sold at a discount below their stated principal amount. These debt securities, as well as other debt securities that are not issued at a discount, may be issued with "original issue discount," or OID, for U.S. federal income tax purposes because of interest payment and other characteristics or terms of the debt securities. Material U.S. federal income tax considerations applicable to debt securities issued with OID will be described in more detail in any applicable prospectus supplement.

Conversion or Exchange Rights

We will set forth in the applicable prospectus supplement the terms on which a series of debt securities may be convertible into or exchangeable for our common stock or our other securities. We will include provisions as to settlement upon conversion or exchange and whether conversion or exchange is mandatory, at the option of the holder or at our option. We may include provisions pursuant to which the number of shares of our common stock or our other securities that the holders of the series of debt securities receive would be subject to adjustment.

Consolidation, Merger or Sale

Unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, the indenture will not contain any covenant that restricts our ability to merge or consolidate, or sell, convey, transfer or otherwise dispose of our assets as an entirety or substantially as an entirety. However, any successor to or acquirer of such assets (other than a subsidiary of ours) must assume all of our obligations under the indenture or the debt securities, as appropriate.

Events of Default Under the Indenture

Unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, the following are events of default under the indenture with respect to any series of debt securities that we may issue:

- if we fail to pay any installment of interest on any series of debt securities, as and when the same shall become due and payable, and such default continues for a period of 90 days; provided, however, that a valid extension of an interest payment period by us in accordance with the terms of any indenture supplemental thereto shall not constitute a default in the payment of interest for this purpose;

- if we fail to pay the principal of, or premium, if any, on any series of debt securities as and when the same shall become due and payable whether at maturity, upon redemption, by declaration or otherwise, or in any payment required by any sinking or analogous fund established with respect to such series; provided, however, that a valid extension of the maturity of such debt securities in accordance with the terms of any indenture supplemental thereto shall not constitute a default in the payment of principal or premium, if any;

- if we fail to observe or perform any other covenant or agreement contained in the debt securities or the indenture, other than a covenant specifically relating to another series of debt securities, and our failure continues for 90 days after we receive written notice of such failure, requiring the same to be remedied and stating that such is a notice of default thereunder, from the trustee or holders of at least 25% in aggregate principal amount of the outstanding debt securities of the applicable series; and

- if specified events of bankruptcy, insolvency or reorganization occur.

If an event of default with respect to debt securities of any series occurs and is continuing, other than an event of default specified in the last bullet point above, the trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series, by notice to us in writing, and to the trustee if notice is given by such holders, may declare the unpaid principal of, premium, if any, and accrued interest, if any, due and payable immediately. If an event of default specified in the last bullet point above occurs with respect to us, the principal amount of and accrued interest, if any, of each issue of debt securities then outstanding shall be due and payable without any notice or other action on the part of the trustee or any holder.

The holders of a majority in principal amount of the outstanding debt securities of an affected series may waive any default or event of default with respect to the series and its consequences, except defaults or events of default regarding payment of principal, premium, if any, or interest, unless we have cured the default or event of default in accordance with the indenture. Any waiver shall cure the default or event of default.

Subject to the terms of the indenture, if an event of default under an indenture shall occur and be continuing, the trustee will be under no obligation to exercise any of its rights or powers under such indenture at the request or direction of any of the holders of the applicable series of debt securities, unless such holders have offered the trustee reasonable indemnity. The holders of a majority in principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or exercising any trust or power conferred on the trustee, with respect to the debt securities of that series, provided that:

- the direction so given by the holder is not in conflict with any law or the applicable indenture; and
- subject to its duties under the Trust Indenture Act, the trustee need not take any action that might involve it in personal liability or might be unduly prejudicial to the holders not involved in the proceeding.

A holder of the debt securities of any series will have the right to institute a proceeding under the indenture or to appoint a receiver or trustee, or to seek other remedies only if:

- the holder has given written notice to the trustee of a continuing event of default with respect to that series;
- the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series have made written request;
- such holders have offered to the trustee indemnity satisfactory to it against the costs, expenses and liabilities to be incurred by the trustee in compliance with the request; and
- the trustee does not institute the proceeding, and does not receive from the holders of a majority in aggregate principal amount of the outstanding debt securities of that series other conflicting directions within 90 days after the notice, request and offer.

These limitations do not apply to a suit instituted by a holder of debt securities if we default in the payment of the principal, premium, if any, or interest on, the debt securities.

We will periodically file statements with the trustee regarding our compliance with specified covenants in the indenture.

Modification of Indenture; Waiver

We and the trustee may change an indenture without the consent of any holders with respect to specific matters:

- to cure any ambiguity, defect or inconsistency in the indenture or in the debt securities of any series;
- to comply with the provisions described above under the section entitled "*Description of Debt Securities-Consolidation, Merger or Sale;*"
- to provide for uncertificated debt securities in addition to or in place of certificated debt securities;
- to add to our covenants, restrictions, conditions or provisions such new covenants, restrictions, conditions or provisions for the benefit of the holders of all or any series of debt securities, to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an event of default or to surrender any right or power conferred upon us in the indenture;
- to add to, delete from or revise the conditions, limitations, and restrictions on the authorized amount, terms, or purposes of issue, authentication and delivery of debt securities, as set forth in the indenture;
- to make any change that does not adversely affect the interests of any holder of debt securities of any series in any material respect;
- to provide for the issuance of and establish the form and terms and conditions of the debt securities of any series as provided above under the section entitled "*Description of Debt Securities—General*" to establish the form of any certifications required to be furnished pursuant to the terms of the indenture or any series of debt securities, or to add to the rights of the holders of any series of debt securities;
- to evidence and provide for the acceptance of appointment under any indenture by a successor trustee; or
- to comply with any requirements of the SEC in connection with the qualification of any indenture under the Trust Indenture Act.

In addition, under the indenture, the rights of holders of a series of debt securities may be changed by us and the trustee with the written consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series that is affected. However, unless we provide otherwise in the prospectus supplement applicable to a particular series of debt securities, we and the trustee may make the following changes only with the consent of each holder of any outstanding debt securities affected:

- extending the fixed maturity of any debt securities of any series;
- reducing the principal amount, reducing the rate of or extending the time of payment of interest, or reducing any premium payable upon the redemption of any series of any debt securities; or
- reducing the percentage of debt securities, the holders of which are required to consent to any amendment, supplement, modification or waiver.

Discharge

Each indenture provides that we can elect to be discharged from our obligations with respect to one or more series of debt securities, except for specified obligations, including obligations to:

- provide for payment;
- register the transfer or exchange of debt securities of the series;
- replace stolen, lost or mutilated debt securities of the series;
- pay principal of and premium and interest on any debt securities of the series;
- maintain paying agencies;
- hold monies for payment in trust;
- recover excess money held by the trustee;
- compensate and indemnify the trustee; and
- appoint any successor trustee.

In order to exercise our rights to be discharged, we must deposit with the trustee money or government obligations sufficient to pay all the principal of, any premium, if any, and interest on, the debt securities of the series on the dates payments are due.

Form, Exchange and Transfer

We will issue the debt securities of each series only in fully registered form without coupons and, unless we provide otherwise in the applicable prospectus supplement, in denominations of $1,000 and any integral multiple thereof. The indenture provides that we may issue debt securities of a series in temporary or permanent global form and as book-entry securities that will be deposited with, or on behalf of, The Depository Trust Company, or DTC, or another depositary named by us and identified in the applicable prospectus supplement with respect to that series. To the extent the debt securities of a series are issued in global form and as book-entry, a description of terms relating to any book-entry securities will be set forth in the applicable prospectus supplement.

At the option of the holder, subject to the terms of the indenture and the limitations applicable to global securities described in the applicable prospectus supplement, the holder of the debt securities of any series can exchange the debt securities for other debt securities of the same series, in any authorized denomination and of like tenor and aggregate principal amount.

Subject to the terms of the indenture and the limitations applicable to global securities set forth in the applicable prospectus supplement, holders of the debt securities may present the debt securities for exchange or for registration of transfer, duly endorsed or with the form of transfer endorsed thereon duly executed if so required by us or the security registrar, at the office of the security registrar or at the office of any transfer agent designated by us for this purpose. Unless otherwise provided in the debt securities that the holder presents for transfer or exchange, we will impose no service charge for any registration of transfer or exchange, but we may require payment of any taxes or other governmental charges.

We will name in the applicable prospectus supplement the security registrar, and any transfer agent in addition to the security registrar, that we initially designate for any debt securities. We may at any time designate additional transfer agents or rescind the designation of any transfer agent or approve a change in the office through which any transfer agent acts, except that we will be required to maintain a transfer agent in each place of payment for the debt securities of each series.

If we elect to redeem the debt securities of any series, we will not be required to:

- issue, register the transfer of, or exchange any debt securities of that series during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of any debt securities that may be selected for redemption and ending at the close of business on the day of the mailing; or

- register the transfer of or exchange any debt securities so selected for redemption, in whole or in part, except the unredeemed portion of any debt securities we are redeeming in part.

Information Concerning the Trustee

The trustee, other than during the occurrence and continuance of an event of default under an indenture, undertakes to perform only those duties as are specifically set forth in the applicable indenture. Upon an event of default under an indenture, the trustee must use the same degree of care as a prudent person would exercise or use in the conduct of his or her own affairs. Subject to this provision, the trustee is under no obligation to exercise any of the powers given it by the indenture at the request of any holder of debt securities unless it is offered reasonable security and indemnity against the costs, expenses and liabilities that it might incur.

Payment and Paying Agents

Unless we otherwise indicate in the applicable prospectus supplement, we will make payment of interest on any debt securities on any interest payment date to the person in whose name the debt securities, or one or more predecessor securities, are registered at the close of business on the regular record date for the interest.

We will pay principal of and any premium and interest on the debt securities of a particular series at the office of the paying agents designated by us, except that unless we otherwise indicate in the applicable prospectus supplement, we will make interest payments by check that we will mail to the holder or by wire transfer to certain holders. Unless we otherwise indicate in the applicable prospectus supplement, we will designate the corporate trust office of the trustee as our sole paying agent for payments with respect to debt securities of each series. We will name in the applicable prospectus supplement any other paying agents that we initially designate for the debt securities of a particular series. We will maintain a paying agent in each place of payment for the debt securities of a particular series.

All money we pay to a paying agent or the trustee for the payment of the principal of or any premium or interest on any debt securities that remains unclaimed at the end of two years after such principal, premium or interest has become due and payable will be repaid to us, and the holder of the debt security thereafter may look only to us for payment thereof.

Governing Law

The indenture and the debt securities will be governed by and construed in accordance with the internal laws of the State of New York, except to the extent that the Trust Indenture Act is applicable.

DESCRIPTION OF WARRANTS

The following description, together with the additional information we may include in any applicable prospectus supplements, summarizes the material terms and provisions of the warrants that we may offer under this prospectus and the related warrant agreements and warrant certificates. While the terms summarized below will apply generally to any warrants that we may offer, we will describe the particular terms of any series of warrants in more detail in the applicable prospectus supplement. If we indicate in the prospectus supplement, the terms of any warrants offered under that prospectus supplement may differ from the terms described below. Specific warrant agreements will contain additional important terms and provisions and will be incorporated by reference as an exhibit to the registration statement, which includes this prospectus.

General

We may issue warrants for the purchase of our common stock, preferred stock and/or debt securities in one or more series. We may issue warrants independently or together with common stock, preferred stock and/or debt securities, and the warrants may be attached to or separate from these securities.

We will evidence each series of warrants by warrant certificates that we will issue under a separate warrant agreement. We will enter into the warrant agreement with a warrant agent. We will indicate the name and address of the warrant agent in the applicable prospectus supplement relating to a particular series of warrants.

We will describe in the applicable prospectus supplement the terms of the series of warrants, including:

- the offering price and aggregate number of warrants offered;
- the currency for which the warrants may be purchased;
- if applicable, the designation and terms of the securities with which the warrants are issued and the number of warrants issued with each such security or each principal amount of such security;
- if applicable, the date on and after which the warrants and the related securities will be separately transferable;
- in the case of warrants to purchase debt securities, the principal amount of debt securities purchasable upon exercise of one warrant and the price at, and currency in which, this principal amount of debt securities may be purchased upon such exercise;
- in the case of warrants to purchase common stock or preferred stock, the number of shares of common stock or preferred stock, as the case may be, purchasable upon the exercise of one warrant and the price at which these shares may be purchased upon such exercise;
- the effect of any merger, consolidation, sale or other disposition of our business on the warrant agreement and the warrants;
- the terms of any rights to redeem or call the warrants;
- any provisions for changes to or adjustments in the exercise price or number of securities issuable upon exercise of the warrants;
- the periods during which, and places at which, the warrants are exercisable;
- the manner of exercise;
- the dates on which the right to exercise the warrants will commence and expire;
- the manner in which the warrant agreement and warrants may be modified;
- federal income tax consequences of holding or exercising the warrants;
- the terms of the securities issuable upon exercise of the warrants; and
- any other specific terms, preferences, rights or limitations of or restrictions on the warrants.

LEGAL OWNERSHIP OF SECURITIES

We can issue securities in registered form or in the form of one or more global securities. We describe global securities in greater detail below. We refer to those persons who have securities registered in their own names on the books that we or any applicable trustee, depositary or warrant agent maintain for this purpose as the "holders" of those securities. These persons are the legal holders of the securities. We refer to those persons who, indirectly through others, own beneficial interests in securities that are not registered in their own names, as "indirect holders" of those securities. As we discuss below, indirect holders are not legal holders, and investors in securities issued in book-entry form or in street name will be indirect holders.

Book-Entry Holders

We may issue securities in book-entry form only, as we will specify in the applicable prospectus supplement. This means securities may be represented by one or more global securities registered in the name of a financial institution that holds them as depositary on behalf of other financial institutions that participate in the depositary's book-entry system. These participating institutions, which are referred to as participants, in turn, hold beneficial interests in the securities on behalf of themselves or their customers.

Only the person in whose name a security is registered is recognized as the holder of that security. Global securities will be registered in the name of the depositary or its participants. Consequently, for global securities, we will recognize only the depositary as the holder of the securities, and we will make all payments on the securities to the depositary. The depositary passes along the payments it receives to its participants, which in turn pass the payments along to their customers who are the beneficial owners. The depositary and its participants do so under agreements they have made with one another or with their customers; they are not obligated to do so under the terms of the securities.

As a result, investors in a global security will not own securities directly. Instead, they will own beneficial interests in a global security, through a bank, broker or other financial institution that participates in the depositary's book-entry system or holds an interest through a participant. As long as the securities are issued in global form, investors will be indirect holders, and not legal holders, of the securities.

Street Name Holders

We may terminate a global security or issue securities that are not issued in global form. In these cases, investors may choose to hold their securities in their own names or in "street name." Securities held by an investor in street name would be registered in the name of a bank, broker or other financial institution that the investor chooses, and the investor would hold only a beneficial interest in those securities through an account he or she maintains at that institution.

For securities held in street name, we or any applicable trustee or depositary will recognize only the intermediary banks, brokers and other financial institutions in whose names the securities are registered as the holders of those securities, and we or any such trustee or depositary will make all payments on those securities to them. These institutions pass along the payments they receive to their customers who are the beneficial owners, but only because they agree to do so in their customer agreements or because they are legally required to do so. Investors who hold securities in street name will be indirect holders, not legal holders, of those securities.

Legal Holders

Our obligations, as well as the obligations of any applicable trustee or third party employed by us or a trustee, run only to the legal holders of the securities. We do not have obligations to investors who hold beneficial interests in global securities, in street name or by any other indirect means. This will be the case whether an investor chooses to be an indirect holder of a security or has no choice because we are issuing the securities only in global form.

For example, once we make a payment or give a notice to the holder, we have no further responsibility for the payment or notice even if that holder is required, under agreements with its participants or customers or by law, to pass it along to the indirect holders but does not do so. Similarly, we may want to obtain the approval of the holders to amend an indenture, to relieve us of the consequences of a default or of our obligation to comply with a particular provision of an indenture, or for other purposes. In such an event, we would seek approval only from the holders, and not the indirect holders, of the securities. Whether and how the legal holders contact the indirect holders is up to the legal holders.

Special Considerations for Indirect Holders

If you hold securities through a bank, broker or other financial institution, either in book-entry form because the securities are represented by one or more global securities or in street name, you should check with your own institution to find out:

- how it handles securities payments and notices;
- whether it imposes fees or charges;
- how it would handle a request for the holders' consent, if ever required;
- whether and how you can instruct it to send you securities registered in your own name so you can be a holder, if that is permitted in the future;
- how it would exercise rights under the securities if there were a default or other event triggering the need for holders to act to protect their interests; and
- if the securities are in book-entry form, how the depositary's rules and procedures will affect these matters.

Global Securities

A global security is a security that represents one or any other number of individual securities held by a depositary. Generally, all securities represented by the same global securities will have the same terms.

Each security issued in book-entry form will be represented by a global security that we issue to deposit with and register in the name of a financial institution or its nominee that we select. The financial institution that we select for this purpose is called the depositary. Unless we specify otherwise in the applicable prospectus supplement, The Depository Trust Company, New York, New York, known as DTC, will be the depositary for all securities issued in book-entry form.

A global security may not be transferred to or registered in the name of anyone other than the depositary, its nominee or a successor depositary, unless special termination situations arise. We describe those situations below under the section entitled "*—Special Situations When a Global Security Will Be Terminated*." As a result of these arrangements, the depositary, or its nominee, will be the sole registered owner and legal holder of all securities represented by a global security, and investors will be permitted to own only beneficial interests in a global security. Beneficial interests must be held by means of an account with a broker, bank or other financial institution that in turn has an account with the depositary or with another institution that does. Thus, an investor whose security is represented by a global security will not be a legal holder of the security, but only an indirect holder of a beneficial interest in the global security.

If the prospectus supplement for a particular security indicates that the security will be issued as a global security, then the security will be represented by a global security at all times unless and until the global security is terminated. If termination occurs, we may issue the securities through another book-entry clearing system or decide that the securities may no longer be held through any book-entry clearing system.

Special Considerations for Global Securities

As an indirect holder, an investor's rights relating to a global security will be governed by the account rules of the investor's financial institution and of the depositary, as well as general laws relating to securities transfers.

We do not recognize an indirect holder as a holder of securities and instead deal only with the depositary that holds the global security.

If securities are issued only as global securities, an investor should be aware of the following:

- an investor cannot cause the securities to be registered in his or her name, and cannot obtain non-global certificates for his or her interest in the securities, except in the special situations we describe below;
- an investor will be an indirect holder and must look to his or her own bank or broker for payments on the securities and protection of his or her legal rights relating to the securities, as we describe above;
- an investor may not be able to sell interests in the securities to some insurance companies and to other institutions that are required by law to own their securities in non-book-entry form;
- an investor may not be able to pledge his or her interest in the global security in circumstances where certificates representing the securities must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective;
- the depositary's policies, which may change from time to time, will govern payments, transfers, exchanges and other matters relating to an investor's interest in the global security;
- we and any applicable trustee have no responsibility for any aspect of the depositary's actions or for its records of ownership interests in the global security, nor will we or any applicable trustee supervise the depositary in any way;

- the depositary may, and we understand that DTC will, require that those who purchase and sell interests in the global security within its book-entry system use immediately available funds, and your broker or bank may require you to do so as well; and

- financial institutions that participate in the depositary's book-entry system, and through which an investor holds its interest in the global security, may also have their own policies affecting payments, notices and other matters relating to the securities.

There may be more than one financial intermediary in the chain of ownership for an investor. We do not monitor and are not responsible for the actions of any of those intermediaries.

Special Situations When a Global Security Will Be Terminated

In a few special situations described below, a global security will terminate and interests in it will be exchanged for physical certificates representing those interests. After that exchange, the choice of whether to hold securities directly or in street name will be up to the investor. Investors must consult their own banks or brokers to find out how to have their interests in securities transferred to their own names, so that they will be direct holders. We have described the rights of holders and street name investors above.

Unless we provide otherwise in the applicable prospectus supplement, a global security will terminate when the following special situations occur:

- if the depositary notifies us that it is unwilling, unable or no longer qualified to continue as depositary for that global security and we do not appoint another institution to act as depositary within 90 days;

- if we notify any applicable trustee that we wish to terminate that global security; or

- if an event of default has occurred with regard to securities represented by that global security and has not been cured or waived.

The applicable prospectus supplement may also list additional situations for terminating a global security that would apply only to the particular series of securities covered by the prospectus supplement. When a global security terminates, the depositary, and neither we nor any applicable trustee, is responsible for deciding the names of the institutions that will be the initial direct holders.

PLAN OF DISTRIBUTION

We may sell the offered securities in and outside the United States (1) through underwriters or dealers, (2) directly to one or more purchasers, including through a "registered direct" offering, (3) through agents, or (4) through a combination of any of these methods or otherwise.

If underwriters or dealers are used in the sale, the securities will be acquired by the underwriters or dealers for their own account and may be resold from time to time in one or more transactions, including:

- in one or more transactions at a fixed price or prices, which may be changed from time to time;
- in "at-the-market offerings," within the meaning of Rule 415(a)(4) of the Securities Act, to or through a market maker or into an existing trading market, on an exchange or otherwise;
- through a market maker or into an existing trading market on an exchange or otherwise;
- at prices related to those prevailing market prices; or
- at negotiated prices.

The applicable prospectus supplement will set forth the following information to the extent applicable:

- the terms of the offering;
- the names of any underwriters, dealers, agents or other purchasers;
- the name or names of any managing underwriter or underwriters;
- the purchase price of the securities;
- the net proceeds from the sale of the securities;
- any option to purchase additional shares or other options under which underwriters, dealers, agents or other purchasers may purchase additional securities from us;
- any delayed delivery arrangements;
- any underwriting discounts, commissions and other items constituting underwriters' compensation;
- any discounts or concessions allowed or reallowed or paid to dealers; and
- any commissions paid to agents.

Sale through Underwriters or Dealers

If any securities are offered through underwriters, the underwriters will acquire the securities for their own account and may resell them from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. Underwriters may offer and sell securities to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless otherwise provided in the applicable prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to certain conditions, and the underwriters will be obligated to purchase all of the offered securities if they purchase any of them. In connection with the sale of securities, underwriters may be deemed to have received compensation from us in the form of underwriting discounts or commissions and dealers may receive compensation from the underwriters in the form of discounts or concessions. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or reallowed or paid to dealers.

In order to facilitate the offering of securities, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of the securities. Specifically, the underwriters may overallot in connection with the offering, creating a short position in the securities for their account. In addition, to cover overallotments or to stabilize the price of the shares, the underwriters may bid for, and purchase, shares in the open market. Finally, an underwriting syndicate may reclaim selling concessions allowed to an underwriter or a dealer for distributing the securities in the offering if the syndicate repurchases previously distributed shares in transactions to cover syndicate short positions, in stabilization transactions, or otherwise. Any of these activities may stabilize or maintain the market price of the offered securities above independent market levels. The underwriters are not required to engage in these activities, and may discontinue any of these activities at any time.

Some or all of the securities that we offer through this prospectus may be new issues of securities with no established trading market. Any underwriters to whom we sell securities for public offering and sale may make a market in those securities, but they will not be obligated to do so and they may discontinue any market making at any time without notice. Accordingly, we cannot assure you of the liquidity of, or continued trading markets for, any securities offered pursuant to this prospectus.

If any securities are offered through dealers, we will sell the securities to them as principal. They may then resell those securities to the public at varying prices determined by the dealers at the time of resale.

Direct Sales and Sales through Agents

We may sell the securities directly to purchasers, including through one or more "registered direct" offerings. If the securities are sold directly to institutional investors or others who may be deemed to be underwriters within the meaning of the Securities Act with respect to any sale of those securities, we will describe the terms of any such sales in the applicable prospectus supplement. We may also sell the securities through agents designated from time to time. Sales may be made by means of ordinary brokers' transactions on The Nasdaq Capital Market at market prices, in block transactions and such other transactions as agreed by us and any agent. In the applicable prospectus supplement, we will name any agent involved in the offer or sale of the offered securities, and we will describe any commissions payable to the agent. Unless otherwise provided in the applicable prospectus supplement, any agent will agree to use its reasonable best efforts to solicit purchases for the period of its appointment.

At-the-Market Offerings

To the extent that we make sales through one or more underwriters or agents in at-the-market offerings, we will do so pursuant to the terms of a sales agency agreement or other at-the-market offering arrangement between us, on one hand, and the underwriters or agents, on the other. If we engage in at-the-market sales pursuant to any such agreement, we will issue and sell our securities through one or more underwriters or agents, which may act on an agency basis or a principal basis. During the term of any such agreement, we may sell securities on a daily basis in exchange transactions or otherwise as we agree with the underwriters or agents. Any such agreement will provide that any securities sold will be sold at prices related to the then prevailing market prices for our securities. Pursuant to the terms of the agreement, we may agree to sell, and the relevant underwriters or agents may agree to solicit offers to purchase, blocks of our common stock or other securities. The terms of any such agreement will be set forth in more detail in the applicable prospectus supplement.

Remarketing Arrangements

Offered securities may also be offered and sold, if we so indicate in the applicable prospectus supplement, in connection with a remarketing upon their purchase, in accordance with a redemption or repayment pursuant to their terms, or otherwise, by one or more remarketing firms, acting as principals for their own accounts or as our agents. Any remarketing firm will be identified and the terms of its agreements, if any, with us and its compensation will be described in the applicable prospectus supplement. Remarketing firms may be deemed to be underwriters of the offered securities under the Securities Act.

Delayed Delivery Contracts

If we so indicate in the applicable prospectus supplement, we may authorize agents, underwriters or dealers to solicit offers by certain institutions to purchase securities from us pursuant to contracts providing for payment and delivery on a specified future date. The applicable prospectus supplement will describe the conditions to those contracts and the commission payable for solicitation of those contracts.

General Information

We may have agreements with the agents, dealers, underwriters and remarketing firms to indemnify them against certain civil liabilities, including liabilities under the Securities Act, or to contribute with respect to payments that the agents, dealers or underwriters may be required to make. Agents, dealers, underwriters and remarketing firms may be customers of, engage in transactions with or perform services for us in the ordinary course of their businesses.

LEGAL MATTERS

Certain legal matters in connection with this offering and the validity of the securities offered by this prospectus, and any supplement thereto, will be passed upon by Stradling Yocca Carlson & Rauth LLP. Any underwriters or agents will be advised about other issues relating to the offering by counsel to be named in the applicable prospectus supplement.

EXPERTS

The consolidated financial statements of Expion Energy, Inc., formerly known as Expion360, Inc., as of December 31, 2025 and 2024, and for each of the two years in the period ended December 31, 2025, incorporated by reference in this Prospectus, have been audited by M&K CPAS, PLLC, an independent registered public accounting firm, as stated in their report. Such financial statements are incorporated by reference in reliance upon the report of such firm given their authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-3, including exhibits, under the Securities Act with respect to the securities offered by this prospectus and any applicable prospectus supplement. This prospectus and the applicable prospectus supplement, which constitutes part of the registration statement, does not contain all of the information in the registration statement and its exhibits. For further information with respect to Expion Energy and the securities offered by this prospectus and any applicable prospectus supplement, we refer you to the registration statement and its exhibits. Statements contained in this prospectus and any applicable prospectus supplement as to the contents of any contract or any other document referred to are not necessarily complete, and in each instance, we refer you to the copy of the contract or other document filed as an exhibit to the registration statement.

We file annual, quarterly and current reports, proxy statements, and other information with the SEC. The SEC maintains a website that contains these reports, proxy and information statements, and other information we file electronically with the SEC. Our filings are available free of charge at the SEC's website at www.sec.gov. We also maintain a website at www.expion360.com, at which you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on or accessible through our website is not a part of this prospectus, and the inclusion of our website address in this prospectus is an inactive textual reference only.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to "incorporate by reference" into this prospectus much of the information we file with the SEC, which means that we can disclose important information to you by referring you to those publicly available documents. The information that we incorporate by reference into this prospectus is considered to be part of this prospectus. These documents may include Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as well as proxy statements and information statements. You should read the information incorporated by reference because it is an important part of this prospectus.

This prospectus incorporates by reference the documents listed below, other than those documents or the portions of those documents deemed to be furnished and not filed in accordance with SEC rules:

- our Annual Report on Form 10-Kfor the year ended December 31, 2025, as filed with the SEC on March 17, 2026;
- our Annual Report on Form 10-K/A(Amendment No. 1) for the year ended December 31, 2025, as filed with the SEC on April 30, 2026;
- our Quarterly Reports on Form 10-Q for the periods ended March 31, 2026, and June 30, 2026, as filed with the SEC on May 15, 2026, and August 10, 2026, respectively;
- our Current Reports on Form 8-K, as filed with the SEC on January 30, 2026, July 7, 2026, July 16, 2026, August 4, 2026, August 24, 2026, August 31, 2026, and October 22, 2026; and
- the Description of Capital Stock set forth in Exhibit 4.4 to our Annual Report on Form 10-K for the year ended December 31, 2025, as filed with the SEC on March 17, 2026.

We also incorporate by reference any future filings (other than current reports furnished under Item 2.02 or Item 7.01 of Form 8-K, and exhibits filed on such form that are related to such items, unless such Form 8-K expressly provides to the contrary) made with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus supplement but prior to the termination of this offering, and such future filings will become a part of this prospectus from the respective dates that such documents are filed with the SEC. Any statement contained herein, or in a document incorporated or deemed to be incorporated by reference herein, shall be deemed to be modified or superseded for purposes hereof or of the related prospectus supplement to the extent that a statement contained herein or in any other subsequently filed document which is also incorporated or deemed to be incorporated herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

You may obtain copies of the documents incorporated by reference in this prospectus from us free of charge by requesting them in writing or by telephone at the following address:

Robert Winspear
Chief Financial Officer, Secretary and Treasurer
Expion Energy, Inc.
2025 SW Deerhound Avenue
Redmond, Oregon 97756
(541) 797-6714

Statements contained in this prospectus as to the contents of any contract or other document are not necessarily complete, and in each instance investors are referred to the copy of the contract or other document filed as an exhibit to the registration statement, each such statement being qualified in all respects by such reference and the exhibits and schedules thereto.



Expion Energy, Inc.

$50,000,000
Common Stock
Preferred Stock
Debt Securities
Warrants

PROSPECTUS

, 2026

The information in this preliminary prospectus is not complete and may be changed. The securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

PRELIMINARY PROSPECTUS
SUBJECT TO COMPLETION, DATED OCTOBER 23, 2026

Filed Pursuant to Rule 424(b)(5)
Registration No. 333-

PROSPECTUS SUPPLEMENT
(To Prospectus dated , 2026)

Expion Energy, Inc.

Up to $1,666,183
Common Stock

We have entered into an at-the-market issuance sales agreement, dated October 23, 2026 (the "Sales Agreement"), with H.C. Wainwright & Co., LLC ("Agent") relating to the issuance and sale of our common stock, par value $0.001 per share, offered by this prospectus supplement and the accompanying base prospectus. In accordance with the terms of the Sales Agreement, we may offer and sell shares of our common stock under this prospectus supplement and the accompanying base prospectus having an aggregate offering price of up to $1,666,183 from time to time through Agent acting as our sales agent or principal.

Our common stock is listed on The Nasdaq Capital Market ("Nasdaq") under the symbol "XPON." On October 22, 2026, the last reported sale price of our common stock on Nasdaq was $3.92 per share.

Sales of our common stock, if any, under this prospectus supplement and the accompanying prospectus may be made in sales deemed to be "at the market offerings" as defined in Rule 415(a)(4) promulgated under the Securities Act of 1933, as amended (the "Securities Act"), including sales made directly on or through Nasdaq, the existing trading market for our common stock, or any other existing trading market in the United States for our common stock, sales made to or through a market maker other than on an exchange or otherwise, directly to the Agent as principal, in negotiated transactions at market prices prevailing at the time of sale or at prices related to such prevailing market prices, and/or in any other method permitted by law. Agent is not required to sell any specific number or dollar amount of securities, but will act as a sales agent using commercially reasonable efforts consistent with its normal trading and sales practices, on mutually agreed terms between Agent and us. There is no arrangement for funds to be received in escrow, trust, or similar arrangement. We will bear all costs associated with the offering.

Agent will be entitled to compensation at a fixed commission rate of 3.0% of the gross proceeds of any shares of common stock sold under the Sales Agreement. In connection with the sale of our common stock on our behalf, Agent will be deemed to be an "underwriter" within the meaning of the Securities Act and the compensation of Agent will be deemed to be underwriting commissions or discounts. We have also agreed to provide indemnification and contribution to Agent with respect to certain liabilities, including certain liabilities under the Securities Act or the Securities Exchange Act of 1934, as amended (the "Exchange Act"). See "Plan of Distribution" beginning on page S-8 of this prospectus supplement for more information regarding these arrangements.

As of October 22, 2026, the aggregate market value of our outstanding common stock held by non-affiliates, or our public float, was approximately $8,963,061. This value was computed by reference to the highest closing price of our common stock on Nasdaq within the preceding 60 days ($9.17 per share on August 26, 2026) multiplied by 977,433 shares held by non-affiliates. Pursuant to General Instruction I.B.6 of Form S-3, in no event will we sell securities in a public primary offering with a value exceeding one-third of our public float in any 12-month period so long as our public float remains below $75.0 million (the "Baby Shelf Limitation"). During the 12 calendar months prior to and including the date of this prospectus supplement (excluding this offering), we have sold approximately $1,321,503 in securities pursuant to General Instruction I.B.6 of Form S-3.

We are an "emerging growth company," as that term is used in the Jumpstart Our Business Startups Act of 2012 and, under applicable Securities and Exchange Commission ("SEC") rules, we have elected to take advantage of certain reduced public company reporting requirements for this prospectus and future filings.

Investing in our common stock involves a high degree of risk. Refer to the sections entitled "*Risk Factors*" beginning on page S-5 of this prospectus supplement and beginning on page 8 of the accompanying base prospectus for a discussion of information that should be considered in connection with an investment in our common stock.

Neither the SEC nor any state securities commission has approved or disapproved of the shares or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

H.C. Wainwright & Co.

The date of this prospectus supplement is , 2026

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ABOUT THIS PROSPECTUS SUPPLEMENT

This prospectus supplement and the accompanying base prospectus are part of a registration statement on Form S-3 that we filed with the SEC utilizing a "shelf" registration process. Under this shelf registration process, we are offering the securities described in this prospectus supplement.

This document is in two parts. The first part is this prospectus supplement, which describes the specific terms of the offering and also adds to and updates information contained in the accompanying base prospectus and the documents incorporated by reference herein and therein. The second part, the accompanying base prospectus, provides more general information. Generally, when we refer to this prospectus, we are referring to both parts of this document combined. To the extent there is a conflict between the information contained in this prospectus supplement and the information contained in the accompanying base prospectus or any document incorporated by reference herein or therein filed prior to the date of this prospectus supplement, you should rely on the information in this prospectus supplement; provided that if any statement in one of these documents is inconsistent with a statement in another document having a later date—for example, a document incorporated by reference in the accompanying base prospectus—the statement in the document having the later date modifies or supersedes the earlier statement.

You should rely only on the information contained in this prospectus, or the information incorporated by reference herein. We have not authorized anyone to provide you with information that is different. The information contained in this prospectus, or incorporated by reference herein, is accurate only as of the respective dates thereof, regardless of the time of delivery of this prospectus or of any issuance of our shares. It is important that you read and consider all information contained in this prospectus, including the documents incorporated by reference herein, in making your investment decision. You should also read and consider the information in the documents to which we have referred you in the sections entitled "*Where You Can Find More Information*" and "*Incorporation of Certain Information by Reference*" in this prospectus supplement.

The representations, warranties and covenants made by us in any agreement that is filed as an exhibit to any document that is incorporated by reference herein were made solely for the benefit of the parties to such agreement, including, in some cases, for the purpose of allocating risk among the parties to such agreements, and should not be deemed to be a representation, warranty or covenant to you. Moreover, such representations, warranties or covenants were accurate only as of the date when made. Accordingly, such representations, warranties and covenants should not be relied on as accurately representing the current state of our affairs.

We are offering the securities offered by this prospectus only in jurisdictions where offers are permitted. The distribution of this prospectus and the offering of our securities in certain jurisdictions may be restricted by law. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of our securities and the distribution of this prospectus outside the United States. This prospectus does not constitute, and may not be used in connection with, an offer to sell, or a solicitation of an offer to buy, any Securities offered by this prospectus by any person in any jurisdiction in which it is unlawful for such person to make such an offer or solicitation.

Unless otherwise mentioned or unless the context requires otherwise, all references in this prospectus to the "Company," "we," "us," "our" and "Expion Energy" refer to Expion Energy, Inc., a Nevada corporation.

PROSPECTUS SUPPLEMENT SUMMARY

This prospectus supplement summary highlights selected information included elsewhere in the prospectus and does not contain all of the information you should consider before buying our securities. You should read the entire prospectus carefully, including the section entitled "Risk Factors" and the financial statements and related notes incorporated by reference into this prospectus, before deciding to invest in our securities. Some of the statements in this prospectus supplement constitute forward-looking statements. For additional information, refer to the section of this prospectus supplement entitled "Cautionary Note Regarding Forward-Looking Statements."

Overview

Lithium Battery Business

Expion Energy, formerly known as Expion360 Inc., focuses on the design, assembly, manufacturing, and sale of lithium iron phosphate ("LiFePO4") batteries and supporting accessories for recreational vehicles ("RVs"), marine applications, and industrial energy storage products. Our high-powered lithium battery solutions incorporate innovative concepts and have been designed to include some of the most dense and minimal-footprint batteries in the RV and marine industries. We deploy intellectual property strategies to support product development, enhance safety and performance, and strengthen relationships across our target markets. This includes design, development, and collaboration, using our IP to bring safety, quality, and service to our customers. Our customers consist of dealers, wholesalers, private-label customers, and original equipment manufacturers ("OEMs") who then sell our products to end consumers and drive brand awareness nationally.

Our primary target markets include the RV, marine, industrial, and commercial energy storage industries. Within the industrial sector, we participate in applications such as electric material handling and forklift equipment, where lithium battery adoption continues to increase as an alternative to traditional lead-acid systems. We believe the broader transition from lead-acid to lithium batteries presents growth opportunities across these markets.

In addition to our current focus areas, we are evaluating opportunities to expand further into industrial and mission-critical commercial applications that require integrated battery energy storage solutions. These may include mobile and stationary systems supporting remote operations, security infrastructure, and other environments that require a high degree of reliability. While we continue to assess these industrial and adjacent markets, our current commercial activities remain concentrated in our established RV, marine, and industrial segments.

Our battery products provide numerous advantages for various industries that are looking to migrate to lithium-based energy storage. They incorporate detailed design and engineering, strong case materials, optimized internal structural layouts, and are supported by responsive customer service.

Oil and Gas Opportunity

We are entering the oil and gas sector to capture rising demand driven by power generation needs, industrial growth, and long-term expansion of LNG markets. We will target opportunistic growth through selective acquisitions and development projects that provide scale, enhance value, and support sustained stockholder value.

On August 21, 2026, we entered into a membership interest purchase agreement (the "Membership Interest Purchase Agreement") pursuant to which we acquired all of the issued and outstanding membership interests of the target company (the "Target"). 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.

Concurrently with execution of the Membership Interest Purchase Agreement, we entered into an exploration agreement (the "Exploration Agreement") with the Target. The Exploration Agreement addresses: (i) existing leases for the approximately 3,000 net acres the Target already owns, (ii) leases for acreage within the AMI that was previously leased, and (iii) new leases intended to be acquired within the AMI representing the expansion of the acreage footprint.

Pursuant to the terms of the Exploration Agreement, we are 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.

Private Placement

On August 21, 2026, we entered into the Purchase Agreement providing for the issuance and sale of: (i) Convertible Debentures, in an aggregate principal amount of $9,000,000, which, upon obtaining stockholder approval, will initially be convertible into up to 2,117,219 shares of common stock based on an initial conversion price of $4.25 per share, and (ii) the August 2026 Warrants to purchase up to 2,117,219 shares of common stock at an exercise price of $4.25 per share (the "Private Placement"). Five Narrow Lane, LP ("FNL") was the lead purchaser in the Private Placement. Our former Chief Executive Officer and Chairman of the Board, Joseph Hammer, serves as a managing member of the general partner of FNL and may be deemed to share voting and dispositive power over the shares of common stock issuable upon conversion of the Convertible Debentures and the AIR Convertible Debentures, and upon exercise of the August 2026 Warrants. Pursuant to the Purchase Agreement, the purchasers in the Private Placement may also elect to purchase the AIR Convertible Debentures with an aggregate stated value of up to $91,000,000 at any time during the 18-month period following the Effective Date, as that term is defined in the Purchase Agreement.

Corporate Information

We were initially organized as a limited liability company under the name "Yozamp Products Company, LLC" in the State of Oregon on June 16, 2016, and converted to a Nevada corporation under its current name pursuant to articles of conversion dated as of November 16, 2021.

We recently changed our corporate name from "Expion360 Inc." to "Expion Energy, Inc." to better align with our expanded energy platform and broadened operating strategy.

Our principal executive offices are located at 2025 SW Deerhound Avenue, Redmond, Oregon 97756 and our phone number is (541) 797-6714.

Our principal website is www.expion360.com. The information contained on, or that can be accessed through, our website is not a part of this prospectus or the registration statement of which it forms a part. The inclusion of our website address in this prospectus is an inactive textual reference only. Investors should not rely on any such information in deciding whether to purchase our Common Stock.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus supplement, the accompanying base prospectus, and the documents incorporated by reference herein and therein, contain "forward-looking statements" within the meaning of the federal securities laws, which statements are subject to considerable risks and uncertainties. These forward-looking statements are intended to qualify for the safe harbor from liability established by the Private Securities Litigation Reform Act of 1995. All statements included or incorporated by reference in this prospectus, other than statements of historical fact, are forward-looking statements. You can identify forward-looking statements by the use of words such as "anticipate," "believe," "continue" "could," "expect," "intend," "may," "will," or the negative of such terms, or other comparable terminology. Forward-looking statements also include the assumptions underlying or relating to such statements. In particular, forward-looking statements included or incorporated by reference in this prospectus relate to, among other things, our future or assumed financial condition, results of operations, liquidity, business forecasts and plans, strategic plans and objectives, and competitive environment. We caution you that the foregoing list may not include all of the forward-looking statements made in this prospectus.

Our forward-looking statements are based on our management's current assumptions and expectations about future events and trends, which affect or may affect our business, strategy, operations or financial performance. Although we believe that these forward-looking statements are based upon reasonable assumptions, they are subject to numerous known and unknown risks and uncertainties and are made in light of information currently available to us. Our actual financial condition and results could differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth in the section entitled "*Risk Factors*" beginning on page S-5 of this prospectus supplement, beginning on page 8 of the accompanying base prospectus, as well as in the other reports we file with the SEC. You should read this prospectus with the understanding that our actual future results may be materially different from and worse than what we expect.

Moreover, we operate in an evolving environment. New risk factors and uncertainties emerge from time to time and it is not possible for our management to predict all risk factors and uncertainties, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

Forward-looking statements speak only as of the date they were made, and, except to the extent required by law or the Nasdaq listing rules, we undertake no obligation to update or review any forward-looking statement because of new information, future events or other factors.

We qualify all of our forward-looking statements by these cautionary statements.

RISK FACTORS

An investment in our common stock involves a high degree of risk. Before deciding whether to invest in our common stock, you should consider carefully the risks described below, as well as the risk factors contained in our most recent Annual Report on Form 10-K and Quarterly Reports on Form 10-Q, together with the other information contained in this prospectus supplement, in the accompanying base prospectus, and in the information and documents incorporated by reference herein and therein. If any of these risks actually occurs, our business, financial condition, results of operations and liquidity could be materially adversely impacted. This could cause the trading price of our common stock to decline, resulting in a loss of all or part of your investment.

Risks Related to this Offering

We have broad discretion in the use of the net proceeds from the offering and may not use them effectively.

Our management will have broad discretion in the application of the net proceeds from this offering and could spend the proceeds in ways that do not improve our results of operations or enhance the value of our common stock. We currently intend to use the net proceeds for working capital and general corporate purposes. The failure by our management to apply these funds effectively could result in financial losses, and these financial losses could have a material adverse effect on our business, cause the price of our common stock to decline and delay the development of our products. We may invest the net proceeds from the offering, pending their use, in a manner that does not produce income or that loses value.

If you purchase shares of common stock in this offering, you will suffer immediate dilution of your investment.

The shares of common stock sold in this offering, if any, will be sold from time to time at various prices. However, the offering price of our common stock may be substantially higher than the net tangible book value per common share. Therefore, if you purchase shares of our common stock in this offering, you may pay a price per share that substantially exceeds our net tangible book value per share after this offering. After giving effect to the sale of our common stock in the aggregate amount of $1,666,183 at an assumed offering price of $3.92 per share, the last reported sale price of shares of our common stock on The Nasdaq Capital Market on October 22, 2026, after deducting commissions and estimated aggregate offering expenses payable by us, you will experience immediate dilution of $1.23 per share, representing the difference between our as adjusted net tangible book value per share as of June 30, 2026 after giving effect to this offering and the assumed offering price of $3.92 per share. See “Dilution” in this prospectus supplement for a more detailed illustration of the dilution you would incur if you participate in this offering.

If you purchase shares of common stock in this offering, you may experience future dilution as a result of future equity offerings or other equity issuances.

We may be required to raise additional capital in the future to fund the growth and operation of our business. In order to raise additional capital, we may in the future offer additional shares of our common stock or other securities convertible into or exchangeable for our common stock at prices that may not be the same as the price per share as prior issuances of common stock. We may not be able to sell shares of our common stock or other securities in any other offering at a price per share that is equal to or greater than the price per share previously paid by investors, and investors purchasing shares or other securities in the future could have rights superior to existing stockholders. The price per share at which we sell additional shares of our common stock or securities convertible into common stock in future transactions may be higher or lower than the prices per share previously paid. You will incur dilution upon exercise of any outstanding stock options, warrants or upon the issuance of shares of common stock under our stock incentive programs. In addition, the issuance of shares of common stock in this offering, and any future sales of a substantial number of shares of our common stock in the public market, or the perception that such sales may occur, could adversely affect the price of our common stock. We cannot predict the effect, if any, that market sales of such shares of common stock or the availability of such shares for sale will have on the market price of our common stock.

We have never declared dividends on our common stock and have no intention to declare dividends in the foreseeable future.

We have never declared or paid any dividends on our common stock and do not anticipate that we will pay any dividends to holders of our common stock in the foreseeable future. We intend to use any excess cash for the development, operation and expansion of our business. The decision to pay cash dividends on our common stock rests with our board of directors and will depend on a number of factors, including our financial condition, results of operations and capital requirements.

This offering may cause the trading price of our shares of common stock to decrease.

The price per share, together with the number of shares of common stock we may issue and sell in this offering, may result in an immediate decrease in the market price of our shares. This decrease may continue after the completion of this offering.

Future sales and issuances of our common stock in the public market might result in significant dilution and could cause the price of our common stock to fall.

Sales of a substantial number of shares of our common stock in the public market, or the perception that these sales might occur, could depress the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities. As of October 22, 2026, we had 1,012,498 shares of common stock outstanding, all of which shares were, and continue to be, eligible for sale in the public market, subject in some cases to compliance with the requirements of Rule 144, including the volume limitations and manner of sale requirements. In addition, all of the shares of common stock offered under this prospectus will be freely tradable without restriction or further registration upon issuance.

It is not possible to predict the actual number of shares of our common stock we will sell under the Sales Agreement, or the gross proceeds resulting from those sales.

Subject to certain limitations in the Sales Agreement and compliance with applicable law, we have the discretion to deliver a placement notice to the Sales Agent at any time throughout the term of the Sales Agreement. The number of shares of our common stock that are sold through the Sales Agent after delivering a placement notice will fluctuate based on a number of factors, including the market price of our common stock during the sales period, the limits we set with the Sales Agent in any applicable placement notice, and the demand for our common stock during the sales period. Because the price per share of each share sold will fluctuate during this offering, it is not currently possible to predict the number of shares that will be sold or the gross proceeds to be raised in connection with those sales.

The common stock offered hereby may be sold in "at the market" offerings or in privately negotiated transactions, and investors who buy shares at different times will likely pay different prices.

Investors who purchase shares in this offering at different times will likely pay different prices, and, as a result, may experience different levels of dilution and different outcomes in their investment results. We will have discretion, subject to market demand, to vary the timing, prices, and numbers of shares sold in this offering. In addition, subject to the final determination by our board of directors, there is no minimum or maximum sales price for shares to be sold in this offering. Investors may experience a decline in the value of the shares they purchase in this offering as a result of sales made at prices lower than the prices they paid.

DIVIDEND POLICY

We have never declared or paid any dividends on our Common Stock and do not anticipate that we will pay any dividends to holders of our Common Stock in the foreseeable future. Instead, we currently plan to retain any earnings to finance the growth of our business. Any future determination relating to dividend policy will be made at the discretion of our board of directors and will depend on our financial condition, results of operations, and capital requirements, as well as other factors deemed relevant by our board of directors.

USE OF PROCEEDS

We may issue and sell our common stock having aggregate gross proceeds of up to $1,666,183 from time to time. Because there is no minimum offering amount required as a condition of this offering, the actual total public offering amount, commissions and proceeds to us, if any, are not determinable at this time. We estimate that the aggregate net proceeds from the sale of our common stock that we are offering may be up to approximately $1.46 million, after deducting Agent's commissions and estimated offering expenses payable by us.

We currently intend to use the net proceeds from this offering, if any, for working capital and other general corporate purposes, including the funding of our capital commitments pursuant to the Exploration Agreement. We may also use a portion of the net proceeds to invest in or acquire assets, businesses or technologies that we believe are complementary to our own, although we have no current plans, commitments or agreements with respect to any acquisitions as of the date of this prospectus.

This expected use of net proceeds from this offering represents our intentions based upon our current plans and business conditions, which could change in the future as our plans and business conditions evolve. We cannot currently allocate specific percentages of the net proceeds to us from this offering that we may use for the purposes specified above. Our management will have broad discretion in the application of the net proceeds from this offering and could use them for purposes other than those contemplated at the time of this offering. Our stockholders may not agree with the manner in which our management chooses to allocate and spend the net proceeds. Moreover, our management may use the net proceeds for corporate purposes that may not result in our being profitable or that increases our market value.

Pending our use of the net proceeds, if any, from this offering, we intend to invest the net proceeds in a variety of capital preservation investments, including short-term, investment-grade, interest-bearing instruments and U.S. government securities.

DILUTION

If you invest in our common stock in this offering, your ownership interest will be immediately diluted to the extent of the difference between the public offering price per share of our common stock and the "as adjusted" net tangible book value per share of our common stock immediately after this offering.

Net tangible book value per share of our common stock is determined by subtracting our total liabilities from the amount of our total tangible assets (total assets less intangible assets) and then dividing the difference by the number of shares of our common stock deemed to be outstanding at that date. As of June 30, 2026, we had a net tangible book value of approximately $4.8 million, or $5.05 per share of common stock.

Dilution per share represents the difference between the assumed public offering price per share of our common stock and the as adjusted net tangible book value per share of our common stock included in this offering after giving effect to this offering. Any sale of our common stock in this offering at a price per share greater than the net tangible book value per share will result in (after giving effect to commission and estimated offering expenses payable by us) an increase in our net tangible book value per share of common stock with respect to our existing stockholders and an immediate dilution in net tangible book value per share of common stock to investors in this offering.

After giving effect to the sale and issuance by us of our common stock in an amount equal to $1,666,183 at an assumed price of $3.92 per share, the last reported sale price of our common stock on the Nasdaq Capital Market on October 22, 2026, and after deducting estimated placement agent fees and commissions to Agent and estimated offering expenses payable by us, our as adjusted net tangible book value as of June 30, 2026, would have been approximately $7.1 million, or approximately $5.15 per share.

This amount represents an immediate decrease in net tangible book value of $0.76 per share to our existing stockholders and immediate dilution in net tangible book value of $1.23 per share to new investors purchasing shares in this offering. We determine dilution by subtracting the as adjusted net tangible book value per share after giving effect to this offering from the assumed public offering price per share paid by an investor in this offering.

The following table illustrates this dilution on a per share basis:

Offering price per share		$ 3.92
Net tangible book value per share as of June 30, 2026	$ 5.91	
Decrease in net tangible book value per share attributable this offering	$ (0.76)	
As adjusted net tangible book value per share after giving effect to this offering		$ 5.15
Dilution per share to investors purchasing shares in this offering		$ (1.23)

The number of shares of common stock that will be outstanding immediately after this offering is based on 953,192 shares outstanding as of June 30, 2026, and excludes as of that date:

- 437 shares of common stock issuable upon the exercise of the November 2021 Warrants at an exercise price of $3,984 per share;
- 61 shares of common stock issuable upon the exercise of the Underwriter Warrants at an exercise price of $10,920 per share;
- 77 shares of common stock issuable upon the exercise of the Underwriter Warrants at an exercise price of $5,400 per share;
- 75,172 shares of common stock issuable upon the exercise of Series A Warrants to purchase common stock outstanding at an exercise price of $15.72 per share;
- 178 shares of common stock issuable upon the exercise of Series B Warrants to purchase common stock outstanding at an exercise price of $1.20 per share;
- 37,433 shares of common stock issuable upon the exercise of the January 2025 Warrants at an exercise price of $15.72 per share;
- 2,912 shares of common stock issuable upon the exercise of the October 2025 Warrants at an exercise price of $0.012 per share;
- 2,117,219 shares of common stock issuable upon the exercise of the August 2026 Warrants;
- 2,117,219 shares of common stock issuable upon conversion of the Convertible Debentures, subject to the approval by our stockholders of the issuance of shares in excess of the Exchange Cap;
- 17,858 shares of common stock issuable upon the exercise of options granted and outstanding under our 2021 Incentive Award Plan;
- 3,333 shares of common stock issuable upon the settlement of restricted stock units granted and outstanding under our 2021 Incentive Award Plan;
- 51,818 shares of common stock available for future issuance under our 2021 Employee Stock Purchase Plan;
- any additional shares of common stock available for future issuance under our 2021 Incentive Award Plan and 2021 Employee Stock Purchase Plan, as a result of the application of the evergreen provisions set forth in those plans or stockholder approval of an increase in the number of shares available for issuance;
- any additional shares of common stock issued upon the conversion of the AIR Convertible Debentures issued upon the exercise of the Additional Investment Right granted to the purchasers pursuant to the Purchase Agreement, subject to the approval by our stockholders of the issuance of shares in excess of the Exchange Cap; and
- any other shares of common stock we have issued or may issue from time to time after June 30, 2026.

Unless otherwise indicated, all information in this prospectus assumes no exercise of outstanding options or warrants, and no conversion of convertible notes.

To the extent that outstanding convertible notes are converted, options or warrants are exercised, or restricted stock awards are settled, you may experience further dilution. In addition, we may choose to raise additional capital due to market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans. To the extent that additional capital is raised through the sale of equity or convertible debt securities, the issuance of these securities could result in further dilution to our stockholders.

PLAN OF DISTRIBUTION

We have entered into the Sales Agreement with Agent under which we may issue and sell common stock from time to time through or to Agent, acting as sales agent or principal. Sales of our common stock, if any, under this prospectus supplement will be made at market prices by any method deemed to be an "at the market offering" as defined in Rule 415(a)(4) under the Securities Act, "), including sales made directly on or through Nasdaq, the existing trading market for our common stock, or any other existing trading market in the United States for our common stock, sales made to or through a market maker other than on an exchange or otherwise, directly to the Agent as principal, in negotiated transactions at market prices prevailing at the time of sale or at prices related to such prevailing market prices, and/or in any other method permitted by law.

Each time that we wish to issue and sell our common stock under the Sales Agreement, we will provide Agent with a placement notice describing the amount of common stock to be sold, the time period during which sales are requested to be made, any limitation on the amount of common stock that may be sold in any single day, any minimum price below which sales may not be made or any minimum price requested for sales in a given time period and any other instructions relevant to such requested sales. Upon receipt of a placement notice, Agent, acting as our sales agent, will use commercially reasonable efforts, consistent with its normal trading and sales practices and applicable state and federal laws, rules and regulations and the rules of Nasdaq, to sell our common stock under the terms and subject to the conditions of the placement notice and the Sales Agreement. We or Agent may suspend the offering of common stock pursuant to a placement notice upon notice and subject to other conditions.

Unless the parties agree otherwise, settlement for sales of common stock will occur on the first trading day following the date on which any sales are made (or any such shorter settlement cycle as may be in effect under Exchange Act Rule 15c6-1 from time to time) in return for payment of the net proceeds to us. There are no arrangements to place any of the proceeds of this offering in an escrow, trust or similar account. Sales of our common stock as contemplated in this prospectus supplement will be settled through the facilities of The Depository Trust Company or by such other means as we and Agent may agree upon.

Commissions and Expenses

We have agreed to pay Agent a fixed commission rate of 3.0% of the gross proceeds of any shares of common stock sold under the Sales Agreement.

We have also agreed to reimburse Agent for certain of its out-of-pocket expenses, including, (a) up to $50,000 in legal fees in connection with the Sales Agreement, and (b) for so long as this offering is ongoing, the reasonable documented legal fees incurred by Agent in connection with updating due diligence in connection with the offering not to exceed $3,500 following each filing of a Quarterly Report on Form 10-Q and each filing of an Annual Report on Form 10-K and each filing of a prospectus supplement.

We estimate expenses payable by us in connection with this offering, other than the fees and expenses referred to above, will be approximately $160,000. We will pay all of our expenses in connection with the registration, offering, and issuance of the shares of our common stock pursuant to the Sales Agreement.

Because there are no minimum sale requirements as a condition to this offering, the actual total public offering price, commissions and net proceeds to us, if any, are not determinable at this time. The actual dollar amount and number of shares of common stock we sell through this prospectus supplement will be dependent, among other things, on market conditions and our capital raising requirements.

The offering of shares of our common stock pursuant to the Sales Agreement will terminate upon the earlier of (a) the sale of all shares subject to the Sales Agreement, or (b) termination of the Sales Agreement pursuant to its terms.

In connection with the sale of the common stock on our behalf, Agent will be deemed to be an "underwriter" within the meaning of the Securities Act, and the compensation of Agent will be deemed to be underwriting commissions or discounts.

Regulation M

To the extent required by Regulation M, Agent will not engage in any market making activities involving our common stock while the offering is ongoing under this prospectus supplement.

Nasdaq Listing

Our common stock is listed on Nasdaq under the symbol "XPON." On October 22, 2026, the last reported sale price of our common stock on Nasdaq was $3.92 per share.

Indemnification

We have agreed to indemnify Agent against certain civil liabilities arising out of or relating to the sale and issuance of shares of our common stock pursuant to the Sales Agreement.

Other Relationships

Agent and certain of its affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. Agent and certain of its affiliates have, from time to time, performed, and may in the future perform, various commercial and investment banking and financial advisory services for us and our affiliates, for which they received or will receive customary fees and expenses. However, except as disclosed in this prospectus supplement, we have no present arrangements with Agent for any further services.

In the ordinary course of their various business activities, Agent and certain of its affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and/or instruments issued by us and our affiliates. If Agent or its affiliates have a lending relationship with us, they routinely hedge their credit exposure to us consistent with their customary risk management policies. Agent and its affiliates may hedge such exposure by entering into transactions that consist of either the purchase of credit default swaps or the creation of short positions in our securities or the securities of our affiliates, including potentially the common stock offered hereby. Any such short positions could adversely affect future trading prices of the common stock offered hereby. Agent and certain of its affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

MATERIAL UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

The following discussion describes the material U.S. federal income tax consequences of the acquisition, ownership and disposition of shares of common stock acquired in this offering. This discussion is based on the current provisions of the Internal Revenue Code of 1986, as amended (the "Code"), existing and proposed U.S. Treasury regulations promulgated thereunder, and administrative rulings and court decisions in effect as of the date hereof, all of which are subject to change at any time, possibly with retroactive effect. No ruling has been or will be sought from the Internal Revenue Service (the "IRS") with respect to the matters discussed below, and there can be no assurance the IRS will not take a contrary position regarding the tax consequences of the acquisition, ownership or disposition of common stock, or that any such contrary position would not be sustained by a court. Except as provided herein, this summary does not discuss the potential effects, whether adverse or beneficial, of any proposed legislation that, if enacted, could be applied on a retroactive or prospective basis.

We assume in this discussion that the shares of common stock will be held as capital assets (generally, property held for investment). This discussion does not address all aspects of U.S. federal income taxes, does not discuss the potential application of the Medicare contribution tax or the alternative minimum tax and does not address state or local taxes or U.S. federal gift and estate tax laws, except as specifically provided below with respect to Non-U.S. Holders (as defined below), or any non-U.S. tax consequences that may be relevant to holders in light of their particular circumstances. In addition, except as specifically set forth below, this summary does not discuss applicable tax reporting requirements. This discussion also does not address the special tax rules applicable to particular holders, such as:
persons who acquired our common stock as compensation for services;

- traders in securities that elect to use a mark-to-market method of accounting for their securities holdings;
- persons that own, or are deemed to own, more than 5% of our common stock (except to the extent specifically set forth below);
- persons required for U.S. federal income tax purposes to conform the timing of income accruals to their financial statements under Section 451(b) of the Code (except to the extent specifically set forth below);
- persons for whom our common stock constitutes "qualified small business stock" within the meaning of Section 1202 of the Code or "Section 1244 stock" for purposes of Section 1244 of the Code;
- persons deemed to sell our common stock under the constructive sale provisions of the Code;

- banks or other financial institutions;
- brokers or dealers in securities or currencies;
- tax-exempt organizations or tax-qualified retirement plans;
- S corporations (and stockholders thereof);
- partnerships or other entities treated as partnerships for U.S. federal income tax purposes (and partners or other owners thereof);
- corporations organized outside the United States, any state thereof, or the District of Columbia that are nonetheless treated as U.S. persons for U.S. federal income tax purposes;
- pension plans;
- regulated investment companies or real estate investment trusts;
- persons that hold the common stock as part of a straddle, hedge, conversion transaction, synthetic security or other integrated investment;
- insurance companies;
- controlled foreign corporations, passive foreign investment companies, or corporations that accumulate earnings to avoid U.S. federal income tax;
- U.S. Holders that are subject to taxing jurisdictions other than, or in addition to, the United States with respect to the common stock; and
- certain U.S. expatriates, former citizens, or long-term residents of the United States.

In addition, this discussion does not address the tax treatment of partnerships (including any entity or arrangement classified as a partnership for U.S. federal income tax purposes) or other pass-through entities or persons who hold shares of common stock through such partnerships or other entities which are pass-through entities for U.S. federal income tax purposes. If such a partnership or other pass-through entity holds shares of common stock, the treatment of a partner in such partnership or investor in such other pass-through entity generally will depend on the status of the partner or investor and upon the activities of the partnership or other pass-through entity. A partner in such a partnership and an investor in such other pass-through entity that will hold shares of common stock should consult his, her or its own tax advisor regarding the tax consequences of the ownership and disposition of shares of common stock through such partnership or other pass-through entity, as applicable.

This discussion of U.S. federal income tax considerations is for general information purposes only and is not tax advice. Prospective investors should consult their own tax advisors regarding the U.S. federal, state, local and non-U.S. income and other tax considerations of acquiring, holding and disposing of our common stock.

Certain U.S. Federal Income Tax Considerations Applicable to U.S. Holders

U.S. Holder Defined

For the purposes of this discussion, a "U.S. Holder" means a beneficial owner of shares of common stock acquired in this offering that is for U.S. federal income tax purposes (a) an individual citizen or resident of the United States, (b) a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes), created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (c) an estate the income of which is subject to U.S. federal income taxation regardless of its source, or (d) a trust if it (1) is subject to the primary supervision of a court within the United States and one or more U.S. persons (within the meaning of Section 7701(a)(30) of the Code) has the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable U.S. Treasury regulations to be treated as a domestic trust. A "Non-U.S. Holder" is, for U.S. federal income tax purposes, a beneficial owner of shares of common stock that is not a U.S. Holder or a partnership for U.S. federal income tax purposes.

Distributions

In the event that we make distributions on our common stock to a U.S. Holder, those distributions generally will constitute dividends for U.S. tax purposes to the extent paid out of our current or accumulated earnings and profits (as determined under U.S. federal income tax principles). Distributions in excess of our current and accumulated earnings and profits will constitute a return of capital that is applied against and reduces, but not below zero, a U.S. Holder's adjusted tax basis in our common stock. Any remaining excess will be treated as gain realized on the sale or exchange of shares of Common Stock as described below under the section titled "*Disposition of Common Stock*."

Information Reporting and Backup Reporting

Information reporting requirements generally will apply to payments of distributions (including constructive distributions) on the Common Stock and Pre-Funded Warrants and to the proceeds of a sale or other disposition of Common Stock and Pre-Funded Warrants paid by us to a U.S. Holder unless such U.S. Holder is an exempt recipient, such as a corporation. Backup withholding will apply to those payments if the U.S. Holder fails to provide the holder's taxpayer identification number, or certification of exempt status, or if the holder otherwise fails to comply with applicable requirements to establish an exemption.

Backup withholding is not an additional tax. Rather, any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against the U.S. Holder's U.S. federal income tax liability provided the required information is timely furnished to the IRS. U.S. Holders should consult their own tax advisors regarding their qualification for exemption from information reporting and backup withholding and the procedure for obtaining such exemption.

Certain U.S. Federal Income Tax Considerations Applicable to Non-U.S. Holders

Distributions

In the event that we make distributions on our common stock to a Non-U.S. Holder, those distributions generally will constitute dividends for U.S. federal income tax purposes as described above under the section titled "*U.S. Holders—Distributions*." To the extent those distributions do not constitute dividends for U.S. federal income tax purposes (*i.e.*, the amount of such distributions exceeds both our current and our accumulated earnings and profits), they will constitute a return of capital and will first reduce a Non-U.S. Holder's basis in our common stock (determined separately with respect to each share of common stock), but not below zero, and then will be treated as gain from the sale of that share common stock as described below under the section titled "*Disposition of Common Stock*."

Any distribution (including constructive distributions) on shares of common stock that is treated as a dividend paid to a Non-U.S. Holder that is not effectively connected with the holder's conduct of a trade or business in the United States will generally be subject to withholding tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty between the United States and the Non-U.S. Holder's country of residence. To obtain a reduced rate of withholding under a treaty, a Non-U.S. Holder generally will be required to provide the applicable withholding agent with a properly executed IRS Form W-8BEN, IRS Form W-8BEN-E or other appropriate form, certifying the Non-U.S. Holder's entitlement to benefits under that treaty. Such form must be provided prior to the payment of dividends and must be updated periodically. If a Non-U.S. Holder holds stock through a financial institution or other agent acting on the holder's behalf, the holder will be required to provide appropriate documentation to such agent. The holder's agent may then be required to provide certification to the applicable withholding agent, either directly or through other intermediaries. If you are eligible for a reduced rate of U.S. withholding tax under an income tax treaty, you should consult with your own tax advisor to determine if you are able to obtain a refund or credit of any excess amounts withheld by timely filing an appropriate claim for a refund with the IRS.

We generally are not required to withhold tax on dividends paid (or constructive dividends deemed paid) to a Non-U.S. Holder that are effectively connected with the holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, are attributable to a permanent establishment or fixed base that the holder maintains in the United States) if a properly executed IRS Form W-8ECI, stating that the dividends are so connected, is furnished to us (or, if stock is held through a financial institution or other agent, to the applicable withholding agent). In general, such effectively connected dividends will be subject to U.S. federal income tax on a net income basis at the regular tax rates applicable to U.S. persons. A corporate Non-U.S. Holder receiving effectively connected dividends may also be subject to an additional "branch profits tax," which is imposed, under certain circumstances, at a rate of 30% (or such lower rate as may be specified by an applicable treaty) on the corporate Non-U.S. Holder's effectively connected earnings and profits, subject to certain adjustments.

See also the sections below titled "*Backup Withholding and Information Reporting*" and "*Foreign Accounts*" for additional withholding rules that may apply to dividends paid to certain foreign financial institutions or non-financial foreign entities.

Disposition of Common Stock

Subject to the discussions below under the sections titled "*Backup Withholding and Information Reporting*" and "*Foreign Accounts*," a Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax with respect to gain recognized on a sale or other disposition (other than a redemption treated as a distribution, which will be taxable as described above under the section titled "*Distributions*") of shares of Common Stock or Pre-Funded Warrants unless:

- the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business in the United States, and if an applicable income tax treaty so provides, the gain is attributable to a permanent establishment or fixed base maintained by the Non-U.S. Holder in the United States; in these cases, the Non-U.S. Holder will be taxed on a net income basis at the regular tax rates and in the manner applicable to U.S. persons, and if the Non-U.S. Holder is a corporation, an additional branch profits tax at a rate of 30%, or a lower rate as may be specified by an applicable income tax treaty, may also apply;

- the Non-U.S. Holder is a nonresident alien present in the United States for 183 days or more in the taxable year of the disposition and certain other requirements are met, in which case the Non-U.S. Holder will be subject to a 30% tax (or such lower rate as may be specified by an applicable income tax treaty between the United States and such holder's country of residence) on the net gain derived from the disposition, which may be offset by certain U.S.-source capital losses of the Non-U.S. Holder, if any; or

- we are, or have been, at any time during the five-year period preceding such sale or other taxable disposition (or the Non-U.S. Holder's holding period, if shorter) a "U.S. real property holding corporation," unless our common stock is regularly traded on an established securities market and the Non-U.S. Holder holds no more than 5% of our outstanding common stock, directly or indirectly, actually or constructively, during the shorter of the five-year period ending on the date of the disposition or the period that the Non-U.S. Holder held our common stock. Generally, a corporation is a U.S. real property holding corporation only if the fair market value of its U.S. real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests plus its other assets used or held for use in a trade or business. Although there can be no assurance, we do not believe that we are, or have been, a U.S. real property holding corporation, or that we are likely to become one in the future. No assurance can be provided that the common stock will be regularly traded on an established securities market for purposes of the rules described above."

See the sections below titled "*Backup Withholding and Information Reporting*" and "*Foreign Accounts*" for additional information regarding withholding rules that may apply to proceeds of a disposition of common stock paid to foreign financial institutions or non-financial foreign entities.

Backup Withholding and Information Reporting

We must report annually to the IRS and to each Non-U.S. Holder the gross amount of the distributions (including constructive distributions) on the common stock paid to such holder and the tax withheld, if any, with respect to such distributions. Non-U.S. Holders may have to comply with specific certification procedures to establish that the holder is not a U.S. person (as defined in the Code) in order to avoid backup withholding at the applicable rate, currently 24%, with respect to dividends (or constructive dividends) on the common stock. Generally, a holder will comply with such procedures if it provides a properly executed IRS Form W-8BEN (or other applicable IRS Form W-8) or otherwise meets documentary evidence requirements for establishing that it is a Non-U.S. Holder, or otherwise establishes an exemption. Dividends paid to Non-U.S. Holders subject to withholding of U.S. federal income tax, as described above under the section titled "*Distributions*," will generally be exempt from U.S. backup withholding.

Information reporting and backup withholding generally will apply to the proceeds of a disposition of the common stock by a Non-U.S. Holder effected by or through the U.S. office of any broker, U.S. or foreign, unless the holder certifies its status as a Non-U.S. Holder and satisfies certain other requirements, or otherwise establishes an exemption. Generally, information reporting and backup withholding will not apply to a payment of disposition proceeds to a Non-U.S. Holder where the transaction is effected outside the United States through a non-U.S. office of a broker. However, for information reporting purposes, dispositions effected through a non-U.S. office of a broker with substantial U.S. ownership or operations generally will be treated in a manner similar to dispositions effected through a U.S. office of a broker. Non-U.S. Holders should consult their own tax advisors regarding the application of the information reporting and backup withholding rules to them.

Copies of information returns may be made available to the tax authorities of the country in which the Non-U.S. Holder resides or is incorporated under the provisions of a specific treaty or agreement.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from a payment to a Non-U.S. Holder can be refunded or credited against the Non-U.S. Holder's U.S. federal income tax liability, if any, provided that an appropriate claim is timely filed with the IRS.

Foreign Accounts

The Foreign Account Tax Compliance Act ("FATCA") generally imposes a 30% withholding tax on dividends (including constructive dividends) on the Common Stock and Pre-Funded Warrants if paid to a non-U.S. entity unless (i) if the non-U.S. entity is a "foreign financial institution," the non-U.S. entity undertakes certain due diligence, reporting, withholding, and certification obligations, (ii) if the non-U.S. entity is not a "foreign financial institution," the non-U.S. entity identifies certain of its U.S. investors, if any, or (iii) the non-U.S. entity is otherwise exempt under FATCA.

Withholding under FATCA generally will apply to payments of dividends (including constructive dividends) on the common stock. While withholding under FATCA would have also applied to payments of gross proceeds from a sale or other disposition of the common stock, under proposed U.S. Treasury Regulations withholding on payments of gross proceeds is not required. Although such regulations are not final, applicable withholding agents may rely on the proposed regulations until final regulations are issued.

An intergovernmental agreement between the United States and an applicable foreign country may modify the requirements described in this section. Under certain circumstances, a holder may be eligible for refunds or credits of the tax. Holders should consult their own tax advisors regarding the possible implications of FATCA on their investment in the common stock.

Federal Estate Tax

Common stock owned or treated as owned by an individual who is not a citizen or resident of the United States (as specially defined for U.S. federal estate tax purposes) at the time of death will be included in the individual's gross estate for U.S. federal estate tax purposes and, therefore, may be subject to U.S. federal estate tax, unless an applicable estate tax or other treaty provides otherwise. A Non-U.S. Holder should consult his, her, or its own tax advisor regarding the U.S. federal estate tax consequences of the ownership or disposition of shares of the common stock.

The preceding discussion of material U.S. federal tax considerations is for information only. It is not tax advice. Prospective investors should consult their own tax advisors regarding the particular U.S. federal, state, local and non-U.S. tax consequences of purchasing, holding and disposing of the common stock, including the consequences of any proposed changes in applicable laws.

LEGAL MATTERS

The validity of the shares of common stock offered under this prospectus will be passed upon by Stradling Yocca Carlson & Rauth LLP, Newport Beach, California. Ellenoff Grossman & Schole LLP, New York, New York is acting as counsel for the Agent in this offering.

EXPERTS

The consolidated financial statements of the Company as of December 31, 2025 and 2024, and for each of the two years in the period ended December 31, 2025, incorporated by reference in this prospectus supplement, have been audited by M&K CPAS, PLLC, an independent registered public accounting firm. Such financial statements are incorporated by reference in reliance upon the report of such firm given their authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-3, including exhibits, under the Securities Act, with respect to our common stock offered under this prospectus. This prospectus, which constitutes a part of the registration statement, does not contain all of the information contained in the registration statement and its exhibits. Certain contracts and other documents described in this prospectus are filed as exhibits to the registration statement, or to documents incorporated by reference into the registration statement, and you may review the full text of these contracts and documents by referring to these exhibits. For further information with respect to us and our common stock offered under this prospectus, reference is made to the registration statement and its exhibits.

We file annual, quarterly and current reports, proxy statements, and other information with the SEC. The SEC maintains a website that contains these reports, proxy and information statements, and other information we file electronically with the SEC. Our filings are available free of charge at the SEC's website at www.sec.gov. We also maintain a website at www.expion360.com, at which you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on or accessible through our website is not a part of this prospectus, and the inclusion of our website address in this prospectus is an inactive textual reference only.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to "incorporate by reference" into this prospectus much of the information we file with the SEC, which means that we can disclose important information to you by referring you to those publicly available documents. The information that we incorporate by reference into this prospectus is considered to be part of this prospectus. These documents may include Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as well as proxy statements and information statements. You should read the information incorporated by reference because it is an important part of this prospectus.

This prospectus incorporates by reference the documents listed below, other than those documents or the portions of those documents deemed to be furnished and not filed in accordance with SEC rules:

- our Annual Report on Form 10-Kfor the year ended December 31, 2025, as filed with the SEC on March 17, 2026;
- our Annual Report on Form 10-K/A(Amendment No. 1) for the year ended December 31, 2025, as filed with the SEC on April 30, 2026;
- our Quarterly Reports on Form 10-Q for the periods ended March 31, 2026, and June 30, 2026, as filed with the SEC on May 15, 2026, and August 10, 2026, respectively;
- our Current Reports on Form 8-K, as filed with the SEC on January 30, 2026, July 7, 2026, July 16, 2026, August 4, 2026, August 24, 2026, August 31, 2026, and October 22, 2026; and
- the Description of Capital Stock set forth in Exhibit 4.4 to our Annual Report on Form 10-K for the year ended December 31, 2025, as filed with the SEC on March 17, 2026.
- the Description of Capital Stock set forth in Exhibit 4.4 to our Annual Report on Form 10-K for the year ended December 31, 2025, as filed with the SEC on March 17, 2026.

We also incorporate by reference any future filings (other than current reports furnished under Item 2.02 or Item 7.01 of Form 8-K, and exhibits filed on such form that are related to such items, unless such Form 8-K expressly provides to the contrary) made with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus supplement but prior to the termination of this offering, and such future filings will become a part of this prospectus from the respective dates that such documents are filed with the SEC. Any statement contained herein, or in a document incorporated or deemed to be incorporated by reference herein, shall be deemed to be modified or superseded for purposes hereof or of the related prospectus supplement to the extent that a statement contained herein or in any other subsequently filed document which is also incorporated or deemed to be incorporated herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

You may obtain copies of the documents incorporated by reference in this prospectus from us free of charge by requesting them in writing or by telephone at the following address:

Robert Winspear
Chief Financial Officer, Secretary and Treasurer
Expion Energy, Inc.
2025 SW Deerhound Avenue
Redmond, Oregon 97756
(541) 797-6714

Statements contained in this prospectus as to the contents of any contract or other document are not necessarily complete, and in each instance investors are referred to the copy of the contract or other document filed as an exhibit to the registration statement, each such statement being qualified in all respects by such reference and the exhibits and schedules thereto.



Expion Energy, Inc.

Up to $1,666,183
Common Stock

PROSPECTUS SUPPLEMENT

H.C. Wainwright & Co.

, 2026

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution

Set forth below is an estimate (except in the case of the SEC registration fee and the FINRA filing fee) of the amount of fees and expenses that Expion Energy, Inc. (the "Registrant") may incur in connection with the issuance and distribution of the offered securities, other than underwriting discounts and commissions.

SEC registration fee†	$-
FINRA filing fee	8,000
Legal fees and expenses	*
Accounting fees and expenses	*
Transfer agent fees and expenses	*
Trustee fees and expenses	*
Warrant agent fees and expenses	*
Financial printing and miscellaneous expenses	*
Total	$ *

* Except for the SEC registration fee and FINRA filing fee, estimated expenses are not presently known. The foregoing sets forth the general categories of expenses that we anticipate we will incur in connection with the offering of securities under this registration statement. To the extent required, any applicable prospectus supplement will set forth the estimated aggregate amount of expenses payable in respect of any offering of securities under the registration statement.

† Excludes the registration fee offset pursuant to Rule 457(p). We previously registered $50,000,000 in aggregate offering price of our securities pursuant to the Registration Statement on Form S-3 (File No. 333-272956), originally filed on June 27, 2023, and declared effective on July 10, 2023 (the "Prior Registration Statement"), which Prior Registration Statement has expired because more than three years have elapsed since the initial effective date thereof and all offerings thereunder have been completed or terminated. At the time the Prior Registration Statement expired, $48,678,497 of the maximum aggregate offering amount of our common stock remained unsold (the "Unsold Securities"). Pursuant to Rule 457(p) under the Securities Act, we are offsetting the full registration fee due under this registration statement, or $4,350, which represents a portion of the registration fee relating to the Unsold Securities previously paid in connection with the Prior Registration Statement.

Item 15. Indemnification of Directors and Officers

Nevada Revised Statutes ("NRS") 78.138(7) provides that, subject to limited statutory exceptions and unless the articles of incorporation or an amendment thereto (in each case filed on or after October 1, 2003) provide for greater individual liability, a director or officer is not individually liable to a corporation or its stockholders or creditors for any damages as a result of any act or failure to act in his or her capacity as a director or officer unless it is proven that: (i) the act or failure to act constituted a breach of his or her fiduciary duties as a director or officer and (ii) the breach of those duties involved intentional misconduct, fraud or a knowing violation of law.

NRS 78.7502(1) provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with the action, suit or proceeding if the person (i) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful. NRS 78.7502(2) provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including amounts paid in settlement and attorneys' fees actually and reasonably incurred by the person in connection with the defense or settlement of the action or suit if the person (a) is not liable pursuant to NRS 78.138 or (ii) acted in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation. To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any such action, suit or proceeding, or in defense of any claim, issue or matter therein, the corporation shall indemnify him or her against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, does not, of itself, create a presumption that the person is liable pursuant to NRS 78.138 or did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, or that, with respect to any criminal action or proceeding, he or she had reasonable cause to believe that the conduct was unlawful. Indemnification may not be made for any claim, issue or matter as to which such a person has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the corporation or for amounts paid in settlement to the corporation, unless and only to the extent that the court in which the action or suit was brought or other court of competent jurisdiction determines upon application that in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

NRS 78.751(1) provides that any discretionary indemnification pursuant to NRS 78.7502 (unless ordered by a court or advanced pursuant to NRS 78.751(2)), may be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances. The determination must be made (i) by the stockholders; (ii) by the board of directors by majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding; (iii) if a majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding so orders, by independent legal counsel in a written opinion; or (iv) if a quorum consisting of directors who were not parties to the action, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion. NRS 78.751(2) provides that the corporation's articles of incorporation or bylaws, or an agreement made by the corporation, may provide that the expenses of officers and directors incurred in defending a civil or criminal action, suit or proceeding must be paid by the corporation as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the director or officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that the director or officer is not entitled to be indemnified by the corporation.

Under the NRS, the indemnification pursuant to NRS 78.7502 and advancement of expenses authorized in or ordered by a court pursuant to NRS 78.751:

- does not exclude any other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation or any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, for either an action in the person's official capacity or an action in another capacity while holding office, except that indemnification, unless ordered by a court pursuant to NRS 78.7502 or for the advancement of expenses made pursuant to NRS 78.751(2), may not be made to or on behalf of any director or officer if a final adjudication establishes that the director's or officer's acts or omissions involved intentional misconduct, fraud or a knowing violation of the law and was material to the cause of action; and

- continues for a person who has ceased to be a director, officer, employee or agent and inures to the benefit of the heirs, executors and administrators of such a person.

A right to indemnification or to advancement of expenses arising under a provision of the articles of incorporation or any bylaw is not eliminated or impaired by an amendment to such provision after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

The Articles of Incorporation of the Company provide that to the fullest extent permitted under the NRS (including, without limitation, to the fullest extent permitted under NRS 78.7502 and 78.751(3)) and other applicable law, the Company shall indemnify directors and officers of the Company in their respective capacities as such and in any and all other capacities in which any of them serves at the request of the Company. The Articles of Incorporation of the Company further provide that the liability of its directors and officers shall be eliminated or limited to the fullest extent permitted by the NRS, and that if the NRS are amended to further eliminate or limit or authorize corporate action to further eliminate or limit the liability of directors or officers, the liability of directors and officers of the Company shall be eliminated or limited to the fullest extent permitted by the NRS, as so amended from time to time; and in addition to any fother rights of indemnification permitted by the laws of the State of Nevada or as may be provided for by the Company in its Bylaws or by agreement, the expenses of directors and officers incurred in defending a civil or criminal action, suit or proceeding, involving alleged acts or omissions of such director or officer in his or her capacity as a director or officer of the Company, must be paid, by the Company or through insurance purchased and maintained by the Company or through other financial arrangements made by the Company, as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the director or officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that he or she is not entitled to be indemnified by the Company.

Further, the Company has entered into indemnification arrangements with each of its directors and executive officers that may be broader than the specific indemnification provisions contained in the NRS. Such arrangements may require the Company, among other things, to advance expenses and otherwise indemnify its executive officers and directors against certain liabilities that may arise by reason of their status or service as executive officers or directors, to the fullest extent permitted by law. The Company intends to enter into indemnification arrangements with any new directors and executive officers in the future.

Item 16. Exhibits and Financial Statement Schedules

The following exhibits are filed herewith, or were previously filed and are hereby incorporated by reference.

		Incorporated by Reference			
Exhibit No.	**Exhibit Description**	**Form**	**Date**	**Exhibit No.**	**Filed Herewith**
1.1	Form of Underwriting Agreement*				
1.2	At-the-Market Issuance Sales Agreement, dated October 23, 2026, by and between the Company and H.C. Wainwright & Co., LLC				X
3.1	Articles of Incorporation of the Company, effective November 4, 2021	S-1	03/31/2022	3.1	
3.2	Certificate of Amendment of Articles of Incorporation, effective October 8, 2024	8-K	10/07//2024	3.1	
3.3	Certificate of Change, effective July 21, 2026	8-K	07/16/2026	3.1	
3.4	Certificate of Amendment of Articles of Incorporation, effective as of August 20, 2026	8-K	08/24/2026	3.2	
3.5	Amended and Restated Bylaws of the Company, dated August 21, 2024	8-K	08/27/2024	3.1	
3.6	Certificate of Amendment of Amended and Restated Bylaws, dated August 20, 2026	8-K	08/24/2026	3.3	
4.1	Form of Common Stock Certificate	S-1	03/31/2022	4.1	
4.2	Form of Indenture				X
4.3	Form of Note*				
4.4	Form of Warrant*				
4.5	Form of Preferred Stock Certificate*				
4.6	Form of Representative's Warrant Agreement	S-1	03/31/2022	4.4	
4.7	Form of Senior Secured Promissory Note issued to bridge loan investors	S-1	03/31/2022	4.5	
4.8	Description of Capital Stock	10-K	03/16/2026	4.4	
4.9	March 2022 Form of Common Stock Warrant	S-1	03/31/2022	10.1	
4.10	March 2023 Form of Warrant with an Exercise Price of $2.90	10-K	03/30/2023	10.15	
4.11	March 2023 Form of Warrant with an Exercise Price of $3.32	10-K	03/30/2023	10.16	
4.12	December 2023 Form of Convertible Note	8-K	12/29/2023	4.1	
4.13	August 2024 Form of Pre-Funded Warrant	8-K	08/09/2024	4.1	
4.14	August 2024 Form of Series A Warrant	8-K	08/09/2024	4.2	
4.15	August 2024 Form of Series B Warrant	8-K	08/09/2024	4.3	
4.16	October 2025 Form of Pre-Funded Warrant	8-K	10/17/2025	4.1	
4.17	October 2025 Form of Common Warrant	8-K	10/17/2025	4.2	
4.18	January 2025 Form of Pre-Funded Warrant	8-K	01/03/2025	4.1	
4.19	January 2025 Form of Common Warrant	8-K	01/03/2025	4.2	
4.20	Form of 8% Convertible Debenture Due August 21, 2029				X
4.21	Form of Common Stock Purchase Warrant				X
5.1	Opinion of Stradling Yocca Carlson & Rauth LLP				X
5.2	Opinion of Stradling Yocca Carlson & Rauth LLP				X
23.1	Consent of Stradling Yocca Carlson & Rauth LLP (included in Exhibit 5.1)				X
23.2	Consent of M&K CPAS PLLC, independent registered public accounting firm				X
24.1	Power of Attorney (included on the signature page to the prospectus which forms part of this registration statement)				X
25.1	Statement of Eligibility on Form T-1 under the Trust Indenture Act†				
101.INS	XBRL Instance Document				X
101.SCH	XBRL Extension Schema Document				X
101.CAL	XBRL Extension Calculation Linkbase Document				X
101.DEF	XBRL Extension Definition Linkbase Document				X
101.LAB	XBRL Extension Label Linkbase Document				X
101.PRE	XBRL Extension Presentation Linkbase Document				X
107.1	Filing Fee Table				X

* To be filed by amendment or incorporated by reference in connection with the offering of the securities.

† To be filed pursuant to Section 305(b)(2) of the U.S. Trust Indenture Act of 1939, as applicable.

Item 17. Undertakings

The undersigned registrant hereby undertakes:

(1) to file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the Form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, *however*, that paragraphs (i), (ii) and (iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act') that are incorporated by reference in the registration statement, or is contained in a Form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement;

(2) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof;

(3) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering;

(4) that, for the purpose of determining liability under the Securities Act to any purchaser:

(i) each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such Form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) that, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) the portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of an undersigned registrant; and

(iv) any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(6) that, for the purposes of determining any liability under the Securities Act, each filing of the annual reports of the Registrant pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that are incorporated by reference in this registration statement, if any, shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof;

(7) to file an application for the purpose of determining the eligibility of the trustee to act under sub section (a) of section 310 of the Trust Indenture Act ("Act") in accordance with the rules and regulations prescribed by the SEC under section 305(b)(2) of the Act; and

(8) insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission, such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Redmond, State of Oregon, on October 23, 2026.

EXPION ENERGY, INC.

By: /s/ Kevin Sellers
Kevin Sellers
Chief Executive Officer and President
(Principal Executive Officer)

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Kevin Sellers and Robert Winspear, and each of them singly (with full power to each of them to act alone), as his or her true and lawful agent, proxy and attorneys-in-fact, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to (i) act on, sign and file with the Securities and Exchange Commission any and all amendments (including post-effective amendments) to this registration statement together with all schedules and exhibits thereto and any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, together with all schedules and exhibits thereto, (ii) act on, sign and file such certificates, instruments, agreements and other documents as may be necessary or appropriate in connection therewith, (iii) act on and file any supplement to any prospectus included in this registration statement or any such amendment or any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and (iv) take any and all actions which may be necessary or appropriate to be done, as fully for all intents and purposes as he or she might or could do in person, hereby approving, ratifying and confirming all that such agent, proxy and attorney-in-fact or any of his or her substitutes may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Name	Title	Date
/s/ Kevin Sellers Kevin Sellers	Chief Executive Officer, President and Director *(Principal Executive Officer)*	October 23, 2026
/s/ Robert Winspear Robert Winspear	Chief Financial Officer, Secretary and Treasurer *(Principal Financial Officer and Principal Accounting Officer)*	October 23, 2026
/s/ Scott Burell Scott Burell	Director and Chairman of the Board of Directors	October 23, 2026
/s/ Marc W. Jarvis Marc W. Jarvis	Director	October 23, 2026
/s/ George Lefevre George Lefevre	Director	October 23, 2026
/s/ Steven M. Shum Steven M. Shum	Director	October 23, 2026

EXPION ENERGY, INC.

Common Stock
(par value $0.001 per share)

At-The-Market Issuance Sales Agreement

October 23, 2026

H.C. Wainwright & Co., LLC
430 Park Avenue, 3rd Floor
New York, NY 10022

Ladies and Gentlemen:

Expion Energy, Inc., a Nevada corporation (the ***"Company"***), confirms its agreement (this ***"Agreement"***) with H.C. Wainwright & Co., LLC (***"Agent"***), as follows:

Section 1. Issuance and Sale of Shares. The Company agrees to issue and sell through or to Agent, as its exclusive sales agent or principal, shares (the ***"Placement Shares"***) of the Company's common stock, par value $0.001 per share (the ***"Common Stock"***), from time to time during the term of this Agreement and on the terms set forth in this Agreement; provided, however, that in no event will the Company issue or sell through or to Agent such number of Placement Shares that (a) exceeds the number of shares or dollar amount of Common Stock registered on the effective Registration Statement (as defined below) pursuant to which the offering is being made, (b) exceeds the number of shares or dollar amount referenced on the Prospectus Supplement (as defined below), (c) exceeds the dollar amount of shares of Common Stock permitted to be sold by the Company under Form S-3, including General Instruction I.B.6 of Form S-3 (if and for so long as applicable) (the lesser of (a), (b) or (c), the ***"Maximum Amount"***). Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitations set forth in this Section 1 on the amount of Placement Shares issued and sold under this Agreement will be the sole responsibility of the Company and that Agent will have no obligation in connection with such compliance, provided that Agent follows the lawful trading instructions provided by the Company pursuant to any Placement Notice in all material respects. The issuance and sale of Placement Shares through Agent will be effected pursuant to the Registration Statement filed by the Company and declared effective by the U.S. Securities and Exchange Commission (the ***"SEC"***), although nothing in this Agreement will be construed as requiring the Company to use the Registration Statement to issue Common Stock. Certain capitalized terms used in this Agreement have the meanings ascribed to them in Section 25.

The Company has filed with the SEC, in accordance with the provisions of the Securities Act of 1933, as amended (the ***"Securities Act"***), and the rules and regulations thereunder (the ***"Securities Act Regulations"***), a shelf registration statement on Form S-3 registering $50,000,000 of securities of the Company to be filed on or about the date hereof, including a base prospectus, relating to certain securities, including the Placement Shares, to be issued from time to time by the Company, and which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended (the ***"Exchange Act"***), and the rules and regulations thereunder, and includes in such shelf registration statement a prospectus supplement specifically relating to the Placement Shares (the ***"Prospectus Supplement"***) to the base prospectus included as part of the registration statement. The Company will furnish to Agent, for use by it, copies of the base prospectus included as part of the registration statement, as supplemented by the Prospectus Supplement, relating to the Placement Shares. Except when the context otherwise requires, such registration statement, and any post-effective amendment thereto, as amended when it became effective, including all documents filed as part thereof or incorporated by reference therein, and including any information contained in a Prospectus (as defined below) subsequently filed with the SEC pursuant to Rule 424(b) under the Securities Act Regulations or deemed to be a part of the registration statement pursuant to Rule 430B or 462(b) of the Securities Act Regulations, or any subsequent registration on Form S-3 filed pursuant to Rule 415(a)(6) under the Securities Act by the Company with respect to the Placement Shares, is herein called the ***"Registration Statement."*** The base prospectus, including all documents incorporated therein by reference, included in the Registration Statement, as it may be supplemented by the Prospectus Supplement, in the form in which the prospectus and/or Prospectus Supplement have most recently been filed by the Company with the SEC pursuant to Rule 424(b) under the Securities Act Regulations, together with any "issuer free writing prospectus" as defined in Rule 433 under the Securities Act (***"Rule 433"***), that (i) is a Permitted Free Writing Prospectus (as defined below), (ii) is required to be filed by the SEC, or (iii) is exempt from filing pursuant to Rule 433(d)(5)(i), in each case in the form filed or required to be filed with the SEC, or if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g), is herein called the ***"Prospectus."*** Any reference herein to the Registration Statement, the Prospectus, or any amendment or supplement thereto will be deemed to refer to and include the documents incorporated by reference therein, and any reference herein to the terms "amend," "amendment," or "supplement" respecting the Registration Statement or the Prospectus will be deemed to refer to and include the filing after the execution hereof of any document with the SEC deemed to be incorporated by reference therein (the ***"Incorporated Documents"***).

For purposes of this Agreement, all references to the Registration Statement, the Prospectus, or to any amendment or supplement thereto will be deemed to include the most recent copy filed with the SEC pursuant to its Electronic Data Gathering Analysis and Retrieval System, or if applicable, the Interactive Data Electronic Application system when used by the SEC (collectively, ***"EDGAR"***).

Section 2. Placements. Each time that the Company wishes to issue and sell Placement Shares hereunder (each, a ***"Placement"***), it will notify Agent by email notice (or other method mutually agreed to in writing by the parties) of the number of Placement Shares to be issued, the period during which sales are requested to be made, any limitation on the number of Placement Shares that may be sold in any one (1) Trading Day (as defined below), and any minimum price below which sales may not be made (a ***"Placement Notice"***), the form of which is attached hereto as Schedule 1. The Placement Notice will originate from any of the individuals from the Company set forth on Schedule 3 (with a copy to each of the other individuals from the Company listed on the schedule) and will be addressed to each of the individuals from Agent set forth on Schedule 3, as Schedule 3 may be amended from time to time. The Placement Notice will be effective unless and until: (a) Agent declines to accept the terms contained therein for any reason, in its sole discretion, by notice to the Company within two (2) Business Days after the receipt of such Placement Notice; (b) the entire amount of the Placement Shares thereunder have been sold; (c) the Company suspends or terminates the Placement Notice; (d) the Company issues a subsequent Placement Notice with parameters suspending those on the earlier dated Placement Notice; or (e) the Agreement has been terminated under the provisions of Section 13. The amount of any discount, commission, or other compensation to be paid by the Company to Agent in connection with the sale of the Placement Shares will be calculated in accordance with the terms set forth in Schedule 2. Neither the Company nor Agent will have any obligation whatsoever respecting a Placement or any Placement Shares unless and until the Company delivers a Placement Notice to Agent and Agent does not decline such Placement Notice pursuant to the terms set forth above, and then only upon the terms specified therein and herein. In the event of a conflict between the terms of Section 2, Section 3, and Section 4 of this Agreement and the terms of a Placement Notice, the terms of the Placement Notice will control, provided that no Placement Notice may reduce Agent's compensation terms set forth in Schedule 2 or impose additional obligations on Agent beyond those contemplated in Section 2, Section 3, and Section 4.

Section 3. Sale of Placement Shares by Agent. Subject to the terms and conditions of this Agreement, Agent, for the period specified in the Placement Notice, will use its commercially reasonable efforts consistent with its normal trading and sales practices and applicable state and federal laws, rules, and regulations and the rules of the Nasdaq Capital Market (the ***"Exchange"***), to sell the Placement Shares up to the amount specified, and otherwise in accordance with the terms of such Placement Notice. Agent will provide written confirmation to the Company no later than the opening of the Trading Day immediately following the Trading Day on which it has sold Placement Shares hereunder, setting forth the number of Placement Shares sold on such day, the compensation payable by the Company to Agent pursuant to Section 2 for such sales, and the Net Proceeds (as defined below) payable to the Company. Subject to the terms of the Placement Notice, Agent may sell Placement Shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415(a)(4) of the Securities Act Regulations, including sales made directly on the Exchange or on any other existing trading market or directly to Agent as principal in negotiated transactions for the Common Stock or to or through a market maker and/or any other method permitted by law. Subject to the terms of a Placement Notice, Agent may also sell Placement Shares by any other method permitted by law, including in privately negotiated transactions, with the Company's consent. ***"Trading Day"*** means any day on which Common Stock is purchased and sold on the principal market on which the Common Stock is listed or quoted.

Section 4. Suspension of Sales. The Company or Agent may, upon notice to the other party in writing (including by email correspondence to each of the individuals of the other party set forth on Schedule 3, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) or by telephone (confirmed immediately by verifiable email correspondence to each of the individuals of the other party set forth on Schedule 3), suspend any sale of Placement Shares; provided, however, that such suspension will not affect or impair any party's obligations respecting any Placement Shares sold hereunder prior to the receipt of such notice. While a suspension is in effect, any obligation under Section 7(l), Section 7(m), and Section 7(n) with respect to delivery of certificates, opinions and comfort letters to Agent shall be waived; provided, however, that upon termination of such suspension and resumption of sales, the Company shall deliver updated certificates, opinions, and comfort letters as required under Section 7(l), Section 7(m), and Section 7(n) before any further sales may occur. Each of the parties agrees that no such notice under this Section 4 will be effective against any other party unless it is made to one of the individuals named on Schedule 3 hereto, as such schedule may be amended from time to time.

Section 5. Sale and Delivery to Agent; Settlement.

(a) Sale of Placement Shares. On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, upon Agent's acceptance of the terms of a Placement Notice, and unless the sale of the Placement Shares described therein has been declined, suspended, or otherwise terminated in accordance with the terms of this Agreement, Agent, for the period specified in the Placement Notice, will use its commercially reasonable efforts consistent with its normal trading and sales practices and applicable state and federal laws, rules and regulations and the rules of the Exchange to sell such Placement Shares up to the amount specified, and otherwise in accordance with the terms of such Placement Notice. The Company acknowledges and agrees that: (i) there can be no assurance that Agent will be successful in selling Placement Shares; (ii) Agent will incur no liability or obligation to the Company or any other Person (as defined herein) if it does not sell Placement Shares for any reason other than a failure by Agent to use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Shares as required under this Agreement; and (iii) Agent will be under no obligation to purchase Placement Shares on a principal basis pursuant to this Agreement, except as otherwise agreed by Agent and the Company.

(b) Settlement of Placement Shares. Unless otherwise specified in the applicable Placement Notice, settlement for sales of Placement Shares will occur on the first (1st) Trading Day (or any such shorter settlement cycle as may be in effect pursuant to Rule 15c6-1 under the Exchange Act from time to time) following the date on which such sales are made (each, a ***"Settlement Date"***). Agent shall notify the Company of each sale of Placement Shares no later than the opening of the Trading Day immediately following the Trading Day on which Agent sold Placement Shares. The amount of proceeds to be delivered to the Company on a Settlement Date against receipt of the Placement Shares sold (the ***"Net Proceeds"***) will be equal to the aggregate sales price received by Agent, after deduction for: (i) Agent's commission, discount, or other compensation for such sales payable by the Company pursuant to Section 2 hereof, and (ii) any transaction fees imposed by any governmental or self-regulatory organization or clearing firm or execution broker for such sales.

(c) Delivery of Placement Shares. On or before each Settlement Date, the Company will, or will cause its transfer agent to, electronically transfer the Placement Shares being sold by crediting Agent's or its designee's account (provided Agent will have given the Company written notice of such designee at least one (1) Business Day prior to the Settlement Date) at The Depository Trust Company through its Deposit and Withdrawal at Custodian System (***"DWAC"***) or by such other means of delivery as may be mutually agreed upon by the parties hereto, which in all cases will be freely tradable, transferable, registered shares in good deliverable form. On each Settlement Date, Agent will deliver the related Net Proceeds in same-day funds to an account designated by the Company on, or prior to, the Settlement Date. Agent shall be responsible for providing DWAC instructions or instructions for delivery by other means with regard to the transfer of the Placement Agent being sold. The Company agrees that if the Company, or its transfer agent (if applicable), defaults in its obligation to deliver duly authorized Placement Shares on a Settlement Date, other than solely as the result of fault of Agent, that in addition to and in no way limiting the rights and obligations set forth in Section 11(a) hereto, it will: (i) hold Agent harmless against any loss, claim, damage, or reasonable and documented expense (including reasonable and documented legal fees and expenses), as incurred, arising out of or in connection with such default by the Company or its transfer agent (if applicable); and (ii) pay to Agent (without duplication) any commission, discount, or other compensation to which it would otherwise have been entitled absent such default.

(d) Limitations on Offering Size. Under no circumstances will the Company cause or request the offer or sale of any Placement Shares if, after giving effect to the sale of such Placement Shares, the aggregate gross sales proceeds of Placement Shares sold pursuant to this Agreement would exceed the lesser of: (i) together with all sales of Placement Shares under this Agreement, the Maximum Amount; or (ii) the amount authorized from time to time to be issued and sold under this Agreement by the Company's board of directors, a duly authorized committee thereof, or a duly authorized executive committee, and notified to Agent in writing. Under no circumstances will the Company cause or request the offer or sale of any Placement Shares pursuant to this Agreement at a price lower than the minimum price authorized from time to time by the Company's board of directors, a duly authorized committee thereof, or a duly authorized executive committee, and notified to Agent in writing.

Section 6. Representations and Warranties of the Company. The Company represents and warrants to, and agrees with, Agent that as of the date of this Agreement and as of each Applicable Time (as defined below) and each Settlement Date, unless such representation, warranty or agreement specifies a different date or time:

(a) Registration Statement and Prospectus. The Company and, assuming no act or omission on the part of Agent that would make such statement untrue, the transactions contemplated by this Agreement meet the requirements for and comply with the conditions for the use of Form S-3 under the Securities Act. The Registration Statement has been filed with the SEC and has been declared

effective under the Securities Act. The Prospectus Supplement will name Agent as the agent in the section entitled "Plan of Distribution." The Company has not received, and has no notice of, any order of the SEC preventing or suspending the use of the Registration Statement or threatening or instituting proceedings for that purpose. The Registration Statement and the offer and sale of Placement Shares as contemplated hereby meet the requirements of Rule 415 under the Securities Act and comply in all material respects with said Rule. Any statutes, regulations, contracts, or other documents that are required to be described in the Registration Statement or the Prospectus or to be filed as exhibits to the Registration Statement have been or will be so described or filed. Copies of the Registration Statement, the Prospectus, and any such amendments or supplements and all documents incorporated by reference therein that were filed with the SEC on or prior to the date of this Agreement have been delivered, or are available through EDGAR, to Agent and its counsel. The Company has not distributed and, prior to the later to occur of each Settlement Date and completion of the distribution of the Placement Shares, will not distribute any offering material in connection with the offering or sale of the Placement Shares other than the Registration Statement and the Prospectus and any Issuer Free Writing Prospectus (as defined below) to which Agent has consented in writing in advance, which consent shall not be unreasonably withheld or delayed. The Common Stock is currently listed on the Exchange under the trading symbol "XPON." Except as disclosed in the Registration Statement, including the Incorporated Documents, the Company has not received notice from the Exchange to the effect that the Company is not in compliance with the Exchange's listing or maintenance requirements. Except as disclosed in the Registration Statement, including the Incorporated Documents, or the Prospectus, and subject to fluctuations in the Company's stock price and revisions to the rules of the Exchange, the Company 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.

(b) No Misstatement or Omission. The Registration Statement, when it became effective, and the Prospectus, and any amendment or supplement thereto, on the date of such Prospectus or amendment or supplement, conformed and will conform in all material respects with the requirements of the Securities Act. At each Applicable Time and each Settlement Date, the Registration Statement and the Prospectus, as of such date, will conform in all material respects with the requirements of the Securities Act. The Registration Statement, when it became or becomes effective, did not, and will not, 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 not misleading. The Prospectus and any amendment and supplement thereto, on the date thereof and at each Applicable Time (defined below) and each Settlement Date, did not or will not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The documents incorporated by reference in the Prospectus or any Prospectus Supplement did not, and any further documents filed and incorporated by reference therein will not, when filed with the SEC, contain an untrue statement of a material fact or omit to state a material fact required to be stated in such document or necessary to make the statements in such document, in light of the circumstances under which they were made, not misleading. The foregoing will not apply to statements in, or omissions from, any such document made in reliance upon, and in conformity with, written information furnished to the Company by Agent specifically for use in the preparation thereof, which information is limited to the sentence set forth under the subheader "Regulation M" in the section of the Prospectus Supplement entitled "Plan of Distribution." No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued, and no proceeding for that purpose or pursuant to Section 8A of the Securities Act has been initiated or threatened by the SEC.

(c) Conformity with Securities Act and Exchange Act. The Registration Statement, the Prospectus, any Issuer Free Writing Prospectus or any amendment or supplement thereto, and the documents incorporated by reference in the Registration Statement, the Prospectus, or any amendment or supplement thereto, when such documents were or are filed with the SEC under the Securities Act or the

Exchange Act or became or become effective under the Securities Act, as the case may be, conformed or will conform in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable.

(d) Financial Information. The consolidated financial statements of the Company included or incorporated by reference in the Registration Statement, the Prospectus, and the Issuer Free Writing Prospectuses, if any, together with the related notes and schedules, complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto as in effect as of the time of filing. Such financial statements have been prepared in accordance with generally accepted accounting principles, consistently applied, during the periods involved (except: (i) as may be otherwise indicated in such financial statements or the notes thereto; or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the consolidated financial position of the Company and the Subsidiaries as of the dates indicated and the consolidated results of operations and cash flows of the Company for the periods specified (subject, in the case of unaudited statements, to normal year-end audit adjustments that will not be material, either individually or in the aggregate); the other financial and statistical data respecting the Company and the Subsidiaries contained or incorporated by reference in the Registration Statement, the Prospectus, and the Issuer Free Writing Prospectuses, if any, are accurately and fairly presented and prepared on a basis consistent with the financial statements and books and records of the Company; there are no financial statements (historical or pro forma) that are required to be included or incorporated by reference in the Registration Statement or the Prospectus that are not included or incorporated by reference as required; the Company and the Subsidiaries (as defined below) do not have any material liabilities or obligations, direct or contingent (including any off-balance sheet obligations), not described in the Registration Statement (including the exhibits thereto) and the Prospectus that are required to be described in the Registration Statement or the Prospectus (including exhibits thereto and Incorporated Documents); and all disclosures contained or incorporated by reference in the Registration Statement, the Prospectus, and the Issuer Free Writing Prospectuses, if any, regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the SEC) comply in all material respects with Regulation G of the Exchange Act and Item 10 of Regulation S-K under the Securities Act, to the extent applicable.

(e) Conformity with EDGAR Filing. The Prospectus delivered to Agent for use in connection with the sale of the Placement Shares pursuant to this Agreement will be identical to the versions of the Prospectus created to be transmitted to the SEC for filing via EDGAR, except to the extent permitted by Regulation S-T.

(f) Organization. The Company and each of its Subsidiaries are, and will be, duly organized, validly existing as a corporation, limited partnership, limited liability company, or other legal entity, and in good standing under the laws of their respective jurisdictions of organization. The Company and each of its Subsidiaries are, and will be, duly qualified as a foreign corporation for transaction of business and in good standing under the laws of each other jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and have all corporate power and authority necessary to own or hold their respective properties and to conduct their respective businesses as described in the Registration Statement and the Prospectus, except where the failure to be so qualified or in good standing or have such power or authority would not, individually or in the aggregate, have a material adverse effect or would reasonably be expected to have a material adverse effect on the assets, business, operations, earnings, properties, condition (financial or otherwise), prospects, stockholders' equity, or results of operations of the Company and the Subsidiaries (as defined below) taken as a whole, or prevent or materially interfere with consummation of the transactions contemplated hereby (a ***"Material Adverse Effect"***).

(g) Subsidiaries. The subsidiaries set forth in the Incorporated Documents and on Schedule 4 (collectively, the ***"Subsidiaries"***) are the Company's only subsidiaries. Except as set forth in the Prospectus, the Company owns, directly or indirectly, all of the equity interests of the Subsidiaries free and clear of any material lien, charge, security interest, encumbrance, right of first refusal, or other restriction, and all the equity interests of the Subsidiaries are validly issued and are fully paid, nonassessable, and free of preemptive and similar rights.

(h) No Violation or Default. Neither the Company nor any of its Subsidiaries is: (i) in violation of its charter or bylaws or similar organizational documents; (ii) in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant, or condition contained in any indenture, mortgage, deed of trust, loan agreement, or other similar agreement or instrument to which the Company or any of its Subsidiaries is a party, by which the Company or any of its Subsidiaries is bound, or to which any of the property or assets of the Company or any of its Subsidiaries are subject; or (iii) in violation of any law or statute or any judgment, order, rule, or regulation of any court, arbitrator, or governmental or regulatory authority, except, in the case of each of clauses (ii) and (iii) above, for any such violation or default that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. To the Company's knowledge, no other party under any material contract or other agreement to which it or any of its Subsidiaries is a party is in default in any respect thereunder where such default would reasonably be expected to have a Material Adverse Effect.

(i) No Material Adverse Change. Subsequent to the respective dates as of which information is given in the Registration Statement, the Prospectus, and the Free Writing Prospectuses, if any (including any document deemed incorporated by reference therein), there has not been: (i) any Material Adverse Effect, or the occurrence of any development that is reasonably likely to result in a prospective Material Adverse Effect, in or affecting the business, properties, management, financial, condition (financial or otherwise), results of operations, or prospects of the Company and the Subsidiaries taken as a whole; (ii) any transaction that is material to the Company and the Subsidiaries taken as a whole; (iii) any obligation or liability, direct or contingent (including any off-balance sheet obligations), incurred by the Company or any Subsidiary, that is material to the Company and the Subsidiaries taken as a whole; (iv) any material change in the capital stock (other than (A) the grant of awards under equity incentive plans, (B) changes in the number of shares of outstanding Common Stock due to exercise or conversion of securities exercisable for or convertible into Common Stock outstanding as of the date of this Agreement, (C) any repurchase of capital stock of the Company, or (D) as a result of the sale of Placement Shares) or outstanding long-term indebtedness of the Company or any of its Subsidiaries; or (v) any dividend or distribution of any kind declared, paid, or made on the capital stock of the Company or any Subsidiary, other than in each case above, in the ordinary course of business or as otherwise disclosed in the Registration Statement or Prospectus (including any document deemed incorporated by reference therein).

(j) Capitalization. The issued and outstanding shares of capital stock of the Company have been validly issued, are fully paid, and nonassessable. The Company has an authorized, issued, and outstanding capitalization as set forth in the Registration Statement and the Prospectus as of the dates referred to therein (other than (i) the grant of additional equity awards under the Company's then existing stock plans, (ii) changes in the number of outstanding shares of Common Stock of the Company due to the issuance of shares upon the exercise or conversion of securities exercisable for, or convertible into, Common Stock outstanding on the date hereof, or (iii) as a result of the issuance of Placement Shares pursuant to this Agreement), and such authorized capital stock conforms in all material respects to the description thereof set forth in the Registration Statement and the Prospectus. The description of the Common Stock in the Registration Statement and the Prospectus is complete and accurate in all material respects. Except as disclosed in or contemplated by the Registration Statement or the Prospectus, as of the date referred to therein, the Company did not have reserved or available for issuance any shares of Common Stock in respect of options, any rights or warrants to subscribe for, any securities or obligations convertible into or exchangeable for, or any contracts or commitments to issue or sell, any shares of capital stock or other securities.

(k) Authorization; Enforceability. The Company has full legal right, power, and authority to enter into this Agreement and perform the transactions contemplated hereby. This Agreement has been duly authorized, executed, and delivered by the Company and is a legal, valid, and binding agreement of the Company enforceable against the Company in accordance with its terms, except to the extent that: (i) enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally and by general equitable principles; and (ii) the indemnification and contribution provisions of Section 11 hereof may be limited by federal or state securities laws and public policy considerations in respect thereof.

(l) Authorization of Placement Shares. The Placement Shares, when issued and delivered pursuant to the terms approved by the board of directors of the Company or a duly authorized committee thereof, or a duly authorized executive committee, against payment therefor as provided herein, will be duly authorized, validly issued, and fully paid and nonassessable, free and clear of any pledge, lien, encumbrance, security interest, or other claim, including any statutory or contractual preemptive rights, resale rights, rights of first refusal, or other similar rights, and will be registered pursuant to Section 12 of the Exchange Act. The Placement Shares, when issued, will conform in all material respects to the description thereof set forth in or incorporated into the Prospectus.

(m) No Consents Required. No consent, approval, authorization, order, registration, or qualification of or with any court or arbitrator or any governmental or regulatory authority having jurisdiction over the Company is required for the execution, delivery, and performance by the Company of this Agreement, and the issuance and sale by the Company of the Placement Shares as contemplated hereby, except for such consents, approvals, authorizations, orders, and registrations or qualifications as may have been obtained or be required under applicable state securities laws or by the bylaws and rules of the Financial Industry Regulatory Authority (***"FINRA"***) or the Exchange in connection with the sale of the Placement Shares by Agent.

(n) No Preferential Rights. Except as set forth in the Registration Statement or the Prospectus: (i) no person, as such term is defined in Rule 1-02 of Regulation S-X promulgated under the Securities Act (each, a ***"Person"***), has the right, contractual or otherwise, to cause the Company to issue or sell to such Person any Common Stock or shares of any other capital stock or other securities of the Company (other than upon the vesting of restricted stock units or exercise of options or warrants to purchase Common Stock or upon the exercise of options that may be granted from time to time under the Company's stock option plans); (ii) no Person has any preemptive rights, rights of first refusal, or any other rights (whether pursuant to a "poison pill" provision or otherwise) to purchase any Common Stock or shares of any other capital stock or other securities of the Company from the Company; (iii) except for Agent, no Person has the right to act as an underwriter or as a financial advisor to the Company in connection with the offer and sale of the Placement Shares; and (iv) no Person has the right, contractual or otherwise, to require the Company to register under the Securities Act any Common Stock or shares of any other capital stock or other securities of the Company, or to include any such shares or other securities in the Registration Statement or the offering contemplated thereby, whether as a result of the filing or effectiveness of the Registration Statement or the sale of the Placement Shares as contemplated thereby or otherwise, except for such rights as have been waived in writing on or prior to the date hereof.

(o) Independent Public Accountant. M&K CPAS, PLLC (the ***"Accountants"***), whose reports on the consolidated financial statements of the Company are filed with the SEC as part of the Company's most recent Annual Report on Form 10-K and incorporated by reference into the Registration Statement, are and, during the periods covered by its report, were an independent registered public accounting firm within the meaning of the Securities Act and the Public Company Accounting Oversight Board (United States). To the Company's knowledge, the Accountants are not in violation of the auditor independence requirements of the Sarbanes-Oxley Act of 2002 (the ***"Sarbanes-Oxley Act"***) respecting the Company.

(p) Enforceability of Agreements. All agreements between the Company and third parties expressly referenced in the Prospectus, other than such agreements that have expired by their terms or whose termination is disclosed in documents filed by the Company on EDGAR, are, to the Company's knowledge, legal, valid, and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except to the extent that: (i) enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally and by general equitable principles; and (ii) the indemnification provisions of certain agreements may be limited by federal or state securities laws or public policy considerations in respect thereof, except for any unenforceability that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(q) Regulatory Filings. Except as disclosed in the Registration Statement and the Prospectus, neither the Company nor any of its Subsidiaries has failed to file with the applicable governmental authorities any required filing, declaration, listing, registration, report or submission, except for such failures that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect; except as disclosed in the Registration Statement and the Prospectus, all such filings, declarations, listings, registrations, reports or submissions were in compliance with applicable laws when filed and no deficiencies have been asserted by any applicable regulatory authority with respect to any such filings, declarations, listings, registrations, reports or submissions, except for any deficiencies that, individually or in the aggregate, would not have a Material Adverse Effect.

(r) No Litigation. Except as set forth in the Registration Statement or the Prospectus: (i) there are no legal, governmental, or regulatory actions, suits, or proceedings pending or, to the Company's knowledge, any legal, governmental, or regulatory investigations to which the Company, or a Subsidiary, or any of their respective directors, officers, or controlling Persons is a party or to which any property of the Company or any of its Subsidiaries is the subject that, individually or in the aggregate, if determined adversely to the Company or any of its Subsidiaries, (A) would reasonably be expected to have a Material Adverse Effect, (B) would materially and adversely affect the ability of the Company to perform its obligations under this Agreement, or (C) would reasonably be expected to affect the validity or enforceability of this Agreement or any Placement Shares issued hereunder; (ii) to the Company's knowledge, no actions, suits, or proceedings are threatened or contemplated by any governmental or regulatory authority or threatened by others against the Company, a Subsidiary, or any of their respective directors, officers, or controlling Persons that, individually or in the aggregate, if determined adversely to the Company or any of its Subsidiaries, would reasonably be expected to have a Material Adverse Effect; (iii) there are no current or pending legal, governmental, or regulatory, actions, suits, proceedings or, to the Company's knowledge, investigations that are required under the Securities Act to be described in the Prospectus that are not described in the Prospectus; and (iv) there are no contracts or other documents that are required under the Securities Act to be filed as exhibits to the Registration Statement that are not so filed.

(s) Licenses and Permits. Except as set forth in the Registration Statement or the Prospectus, the Company and each of its Subsidiaries possess or have made all filings, applications, and submissions required by all licenses, certificates, consents, orders, approvals, permits, and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local, or foreign governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in the Registration Statement and the Prospectus (the ***"Permits"***), except where the failure to possess, obtain, or make the same would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as disclosed in the Registration Statement or the Prospectus, neither the Company nor its Subsidiaries have received written notice of any proceeding relating to revocation or modification of any such Permit or have any reason to believe that such Permit will not be renewed in the ordinary course, except when the failure to obtain any such renewal would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(t) S-3 Eligibility. (i) At the time of filing the Registration Statement; and (ii) if applicable, at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Securities Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act, or form of prospectus), the Company met the requirements for use of Form S-3 under the Securities Act, up to the Maximum Amount. The Company is not a shell company (as defined in Rule 405 under the Securities Act) and has never been a shell company. If the offering of the Placement Shares is being made pursuant to General Instruction I.B.6 of Form S-3, the Company meets the transaction requirement as set forth in General Instruction I.B.6 of Form S-3 with respect to the aggregate market value of securities being sold pursuant to this offering and during the twelve (12) calendar months prior to such time that this representation is made or deemed to be made.

(u) No Material Defaults. Except as set forth in the Registration Statement and Prospectus, neither the Company nor any of the Subsidiaries has defaulted on any installment on indebtedness for borrowed money or on any rental on one or more long-term leases, which defaults, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect. Except as set forth in the Registration Statement and Prospectus, the Company has not filed a report pursuant to Section 13(a) or 15(d) of the Exchange Act since the filing of its last Annual Report on Form 10-K, indicating that it: (i) has failed to pay any dividend or sinking fund installment on preferred stock; or (ii) has defaulted on any installment on indebtedness for borrowed money or on any rental on one or more long-term leases, which defaults, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

(v) Certain Market Activities. Neither the Company nor any of the Subsidiaries, nor any of their respective directors, officers, or controlling Persons has taken, directly or indirectly, any action designed, or that has constituted or might reasonably be expected to cause or result in, under the Exchange Act or otherwise, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Placement Shares.

(w) Broker-Dealer Relationships. Neither the Company nor any of the Subsidiaries or any related entities: (i) are required to register as a "broker" or "dealer" in accordance with the provisions of the Exchange Act; or (ii) directly or indirectly through one or more intermediaries, control or are a "person associated with a member" or "associated person of a member" (within the meaning set forth in the FINRA rules). To the Company's knowledge, there are no affiliations or associations between any member of FINRA and any of the Company's officers, directors or 10% or greater security holders, except as set forth in the Registration Statement. All of the information (including, but not limited to, information regarding affiliations, security ownership and trading activity) provided to Agent or its counsel by the Company, its officers and directors and the holders of any securities (debt or equity) or warrants, options or rights to acquire any securities of the Company in connection with the filing to be made and other supplemental information to be provided to FINRA pursuant to Rule 5110 of FINRA in connection with the transactions contemplated by this Agreement is true, complete and correct, and copies

of any Company filings required to be filed with FINRA have been filed with the Commission or delivered to the Sales Agent for filing with FINRA.

(x) No Reliance. The Company has not relied upon Agent or legal counsel for Agent for any legal, tax, or accounting advice in connection with the offering and sale of the Placement Shares.

(y) Taxes. The Company and each of its Subsidiaries have filed all federal, state, local, and foreign tax returns that have been required to be filed and paid all taxes shown thereon through the date hereof, to the extent that such taxes have become due and are not being contested in good faith by appropriate proceedings, except when the failure to do so would not reasonably be expected to have a Material Adverse Effect. Except as otherwise disclosed in or contemplated by the Registration Statement or the Prospectus, no tax deficiency has been determined adversely to the Company or any of its Subsidiaries that has had, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Company has no knowledge of any federal, state, or other governmental tax deficiency, penalty, or assessment that has been or might be asserted or threatened against it that could have a Material Adverse Effect.

(z) Title to Real and Personal Property. The Company and its Subsidiaries have (i) valid and defensible title, in accordance with customary industry standards for companies of comparable size, to substantially all their respective interests in natural gas and oil properties leased or owned by them, and (ii) good and defensible title to all other items of real and personal property owned by them that are material to the business of the Company or such Subsidiary, or to the Company's financial condition, in each case, free and clear of all liens, encumbrances, and defects (other than under joint operating and other agreements and arrangements customary in the oil and gas industry), except as described in the Registration Statement and Prospectus or that do not materially affect the value of the properties of the Company and its Subsidiaries, considered as one enterprise, and do not interfere in any material respect with the use made and proposed to be made of such properties by the Company and its Subsidiaries, considered as one enterprise; and all of the leases, subleases, and other rights under which the Company or any of its Subsidiaries holds or uses properties described in the Registration Statement and Prospectus are in full force and effect, with such exceptions as would not reasonably be expected to have a Material Adverse Effect, and neither the Company nor any of its Subsidiaries has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or its Subsidiaries under any of the leases, subleases, and other rights mentioned above, or affecting or questioning the rights of the Company or any Subsidiary thereof to the continued possession or use of the leased or subleased premises or the premises granted by leases, subleases, and other rights. The Company and each of its Subsidiaries have the consents, easements, rights-of-way, or licenses from any Person as are necessary to enable them to conduct their business in the manner described in the Registration Statement and the Prospectus, subject to such qualifications as may be set forth in the Registration Statement and the Prospectus, and except for the consents, easements, rights-of-way, or licenses the lack of which would not have, individually or in the aggregate, a Material Adverse Effect.

(aa) Intellectual Property. Except as set forth in the Registration Statement or the Prospectus, to the Company's knowledge, the Company and its Subsidiaries own or possess adequate enforceable rights to use all patents, patent applications, trademarks (both registered and unregistered), service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses, and know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems, or procedures) (collectively, the ***"Intellectual Property"***), necessary for the conduct of their respective businesses as conducted as of the date hereof, except to the extent that the failure to own or possess adequate rights to use such Intellectual Property would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; except as disclosed in writing to Agent, the Company and any of its Subsidiaries have not received any written notice of any claim of infringement or conflict that asserted Intellectual Property rights of others, which infringement or conflict, if the subject of an unfavorable decision, would result in a Material Adverse Effect; there are no pending, or to the Company's knowledge, threatened judicial proceedings or interference proceedings against the Company or its Subsidiaries challenging the Company's or its Subsidiaries' rights in or to or the validity of the scope of any of the Company's or its Subsidiaries' material patents, patent applications, or proprietary information; to the Company's knowledge, no other entity or individual has any right or claim in any of the Company's or its Subsidiaries' owned, material patents, patent applications, or any patent to be issued therefrom by virtue of any contract, license, or other agreement entered into between such entity or individual and the Company or a Subsidiary or by any non-contractual obligation of the Company or a Subsidiary, other than by written licenses granted by the Company or a Subsidiary; the Company and its Subsidiaries have not received any written notice of any claim challenging the rights of the Company or a Subsidiary in or to any Intellectual Property owned, licensed, or optioned by the Company or such Subsidiary that, if the subject of an unfavorable decision, would result in a Material Adverse Effect.

(bb) Environmental Laws. Except as set forth in the Registration Statement or the Prospectus, the Company and its Subsidiaries: (i) are in compliance with any and all applicable federal, state, local, and foreign laws, rules, regulations, decisions, and orders relating to the protection of human health and safety, the environment, hazardous or toxic substances or wastes, pollutants, or contaminants (collectively, ***"Environmental Laws"***); (ii) have received and are in compliance with all permits, licenses, or other approvals required of them under applicable Environmental Laws to conduct their respective businesses as described in the Registration Statement and the Prospectus; (iii) have not received notice of any actual or potential liability for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants, or contaminants, except, in the case of any of clauses (i), (ii), or (iii) above, for any such failure to comply or failure to receive required permits, licenses, other approvals or liability as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and (iv) there are no costs or liabilities arising under Environmental Laws respecting the operation of the Company's and each of its Subsidiaries' properties (including any capital or operating expenditures required for clean-up or closure of the properties, compliance with Environmental Laws, any permit, license, or approval or any related legal constraints or operating activities, and any potential liabilities of third parties assumed under contract by the Company or any of its Subsidiaries) that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(cc) Disclosure Controls. The Company and each of its Subsidiaries maintain systems of internal accounting controls designed to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset 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 respecting any differences. Except as disclosed in the Prospectus, the Company is not aware of any material weaknesses in its internal control over financial reporting. Since the date of the latest audited financial statements of the Company included in the Prospectus, there has been no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting (other than as set forth in the Prospectus). The Company has established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15 and 15d-15) for the Company and designed such disclosure controls and procedures to provide reasonable assurance that material information relating to the Company and each of its Subsidiaries is made known to the certifying officers by others within those entities, particularly during the period in which the Company's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, is being prepared. The Company's certifying officers have evaluated the effectiveness of the Company's controls and procedures as of a date within 90 days prior to the filing date of the Form 10-K for the fiscal year most recently ended (such date, the ***"Evaluation Date"***). The Company presented in its Form 10-K for the fiscal year most recently ended 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 significant changes in the Company's internal controls (as such term is defined in Item 307(b) of Regulation S-K under the Securities Act). Except as disclosed in the Company's public filings with the SEC, to the knowledge of the Company, the Company's "internal controls over financial reporting" and "disclosure controls and procedures" are effective.

(dd) Sarbanes-Oxley. There is and has been no failure on the part of the Company or, to the knowledge of the Company, any of the Company's directors or officers, in their capacities as such, to comply in all material respects with any applicable provisions of the Sarbanes-Oxley Act and the applicable rules and regulations promulgated thereunder. Each of the principal executive officer and the principal financial officer of the Company (or each former principal executive officer of the Company and each former principal financial officer of the Company as applicable) has made all certifications required by Sections 302 and 906 of the Sarbanes-Oxley Act respecting all reports, schedules, forms, statements, and other documents required to be filed by it or furnished by it to the SEC during the 12 months prior to the date of this Agreement. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" will have the meanings given to such terms in the Sarbanes-Oxley Act.

(ee) Finder's Fees. Neither the Company nor any of the Subsidiaries has incurred any liability for any finder's fees, brokerage commissions, or similar payments in connection with the transactions herein contemplated, except as may otherwise exist respecting Agent pursuant to this Agreement.

(ff) Labor Disputes. No labor disturbance by or dispute with employees of the Company or any of its Subsidiaries exists or, to the knowledge of the Company, is threatened that would reasonably be expected to result in a Material Adverse Effect.

(gg) Investment Company Act. Neither the Company nor any of the Subsidiaries is or, after giving effect to the offering and sale of the Placement Shares, will be an "investment company" or an entity "controlled" by an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended (the ***"Investment Company Act"***).

(hh) Operations. To the knowledge of the Company, the operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions to which the Company or its Subsidiaries are subject, the rules and regulations thereunder, and any related or similar rules, regulations, or guidelines, issued, administered, or enforced by any governmental agency having jurisdiction over the Company (collectively, the ***"Money Laundering Laws"***), except as would not reasonably be expected to result in a Material Adverse Effect; and no action, suit, or proceeding by or before any court or governmental agency, authority, or body or any arbitrator involving the Company or any of its Subsidiaries respecting the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(ii) Off-Balance Sheet Arrangements. There are no transactions, arrangements, and other relationships between and/or among the Company, and/or, to the knowledge of the Company, any of its affiliates and any unconsolidated entity, including any structural finance, special purpose, or limited purpose entity (each, an ***"Off Balance Sheet Transaction"***) that could reasonably be expected to affect materially the Company's liquidity or the availability of or requirements for its capital resources, including those Off Balance Sheet Transactions described in the SEC's Statement about Management's Discussion and Analysis of Financial Conditions and Results of Operations (Release Nos. 33-8056; 34-45321; FR-61), required to be described in the Prospectus that have not been described as required.

(jj) Underwriter Agreements. The Company is not a party to any agreement with an agent or underwriter for any other "at-the-market" or continuous equity transaction.

(kk) ERISA. To the knowledge of the Company: (i) each material employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (***"ERISA"***), that is maintained, administered, or contributed to by the Company or any of its Subsidiaries (other than a Multiemployer Plan, within the meaning of Section 3(37) of ERISA) for employees or former employees of the Company and any of its Subsidiaries has been maintained in material compliance with its terms and the requirements of any applicable statutes, orders, rules, and regulations, including ERISA and the Internal Revenue Code of 1986, as amended (the ***"Code"***); (ii) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred respecting any such plan (excluding transactions effected pursuant to a statutory or administrative exemption); and (iii) for each such plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, no "accumulated funding deficiency" as defined in Section 412 of the Code has been incurred, whether or not waived, and the fair market value of the assets of each such plan (excluding for these purposes accrued but unpaid contributions) equals or exceeds the present value of all benefits accrued under such plan determined using reasonable actuarial assumptions, other than, in the case of (i), (ii), and (iii) above, as would reasonably be expected to not have a Material Adverse Effect.

(ll) Margin Rules. Neither the issuance, sale, and delivery of the Placement Shares nor the application of the proceeds thereof by the Company as described in the Registration Statement and the Prospectus will violate Regulation T, U, or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board of Governors.

(mm) Insurance. The Company and each of its Subsidiaries carry, or are covered by, insurance in such amounts and covering such risks as the Company and each of its Subsidiaries reasonably believe are adequate for the conduct of their properties and as is customary for companies of similar size engaged in similar businesses in similar industries.

(nn) No Improper Practices. (i) Neither the Company nor, to the Company's knowledge, the Subsidiaries or any of their respective executive officers or directors has, in the past five (5) years, made any unlawful contributions to any candidate for any political office (or failed fully to disclose any contribution in violation of law) or made any contribution or other payment to any official of, or candidate for, any federal, state, municipal, or foreign office or other Person charged with similar public or quasi-public duty in violation of any law or of the character required to be disclosed in the Prospectus; (ii) no relationship, direct or indirect, exists between or among the Company or, to the Company's knowledge, any Subsidiary or any affiliate of any of them, on the one hand, and the directors, officers and stockholders of the Company or, to the Company's knowledge, any Subsidiary, on the other hand, that is required by the Securities Act to be described in the Registration Statement and the Prospectus that is not so described; (iii) no relationship, direct or indirect, exists between or among the Company or any Subsidiary or any affiliate of them, on the one hand, and the directors, officers, or stockholders of the Company or, to the Company's knowledge, any Subsidiary, on the other hand, that is required by the rules of FINRA to be described in the Registration Statement and the Prospectus that is not so described; (iv) except as described in the Prospectus, there are no material outstanding loans or advances or material guarantees of indebtedness by the Company or, to the Company's knowledge, any Subsidiary to or for the benefit of any of their respective officers or directors or any of the members of the families of any of them; and (v) the Company has not offered, or caused any placement agent to offer, Common Stock to any Person with the intent to influence unlawfully: (1) a customer or supplier of the Company or any Subsidiary to alter the customer's or supplier's level or type of business with the Company or any Subsidiary; or (2) a trade journalist or publication to write or publish favorable information about the Company or any Subsidiary or any of their respective products or services; and (vi) neither the Company nor any Subsidiary nor, to the Company's knowledge, any officer, director, employee or agent of the Company or any Subsidiary has made any payment of funds of the Company or any Subsidiary or received or retained any funds in violation of any law, rule, or regulation (including the Foreign Corrupt Practices Act of 1977), which payment, receipt, or retention of funds is of a character required to be disclosed in the Registration Statement or the Prospectus.

(oo) Status under the Securities Act. The Company was not and is not an ineligible issuer as defined in Rule 405 under the Securities Act at the times specified in Rules 164 and 433 under the Securities Act in connection with the offering of the Placement Shares.

(pp) No Misstatement or Omission in an Issuer Free Writing Prospectus. Each Issuer Free Writing Prospectus, as of its issue date and as of each Applicable Time (as defined in Section 25 below), did not, does not and will not, through the completion of the Placement for which such Issuer Free Writing Prospectus is used or deemed use, include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any incorporated document deemed to be a part thereof that has not been superseded or modified. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus made in reliance upon, and in conformity with written information furnished to the Company by Agent specifically for use in the preparation thereof.

(qq) No Conflicts. None of the execution of this Agreement; the issuance, offering, or sale of the Placement Shares; the consummation of any of the transactions contemplated herein; or the compliance by the Company with the terms and provisions hereof will conflict with or result in a breach of any of the terms and provisions of; constitute or will constitute a default under; or has resulted in or will result in the creation or imposition of any lien, charge, or encumbrance upon any property or assets of the Company pursuant to the terms of any contract or other agreement to which the Company may be bound or to which any of the property or assets of the Company is subject, except: (i) such conflicts, breaches, or defaults as may have been waived; and (ii) such conflicts, breaches, and defaults that would not reasonably be expected to have a Material Adverse Effect; nor will such action result in any violation of the provisions of the organizational or governing documents of the Company or in any material violation of the provisions of any statute or any order, rule, or regulation applicable to the Company or of any court or of any federal, state, or other regulatory authority or other government body having jurisdiction over the Company, except where such violation would not reasonably be expected to have a Material Adverse Effect.

(rr) Regulatory Compliance.

(i) Neither the Company nor any of its Subsidiaries (each, an ***"Entity"***) nor any director, officer, employee, nor to the Entity's knowledge, any agent, affiliate, or representative of the Entity, is a government, individual, or entity that is owned or controlled by any director, officer, employee, agent, affiliate, or representative of the Entity that is:

(1) the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control, the United Nations Security Council, the European Union, His Majesty's Treasury, or other relevant sanctions authority (collectively, ***"Sanctions"***); or

(2) located, organized, or resident in a country or territory that is the subject of Sanctions (including, as of the date hereof, Burma/Myanmar, Cuba, Iran, North Korea, Sudan, Syria, and the Crimea, Donetsk, and Luhansk regions of Ukraine).

(ii) The Company, on behalf of each Entity, represents and covenants that it will not, directly or indirectly, use, lend, contribute, or otherwise make available the proceeds of the offering governed by this Agreement to any subsidiary, joint venture partner, or other director, officer, employee, agent, affiliate, or representative of the Entity:

(1) to fund or facilitate any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the subject of Sanctions; or

(2) in any other manner that will result in a violation of Sanctions by any Person (including any Person participating in the offering, whether as underwriter, advisor, investor, or otherwise).

(iii) Except as detailed in the Prospectus, for the past five years, the Entity has not knowingly engaged in, is not now knowingly engaged in, and will not engage in, any dealings or transactions with any Person, or in any country or territory, that at the time of the dealing or transaction is or was the subject of Sanctions.

(ss) Stock Transfer Taxes. On each Settlement Date, all stock transfer or other taxes (other than income taxes) that are required to be paid in connection with the sale and transfer of the Placement Shares to be sold hereunder will be, or will have been, fully paid or provided for by the Company and all laws imposing such taxes will be or will have been fully complied with in all material respects.

Any certificate signed by an officer of the Company and delivered to Agent or to counsel for Agent pursuant to or in connection with this Agreement will be deemed to be a representation and warranty by the Company, as applicable, to Agent as to the matters set forth therein. The Company acknowledges that Agent and, for purposes of the opinions to be delivered pursuant to Section 7 hereof, counsel to the Company and counsel to Agent, will rely upon the accuracy and truthfulness of the foregoing representations and hereby consents to such reliance.

Section 7. Covenants of the Company. The Company covenants and agrees with Agent that:

(a) Registration Statement Amendments. After the date of this Agreement and during any period in which a Prospectus relating to any Placement Shares is required to be delivered by Agent under the Securities Act (including in circumstances when such requirement may be satisfied pursuant to Rule 172 under the Securities Act): (i) the Company will notify Agent promptly of the time when any subsequent amendment to the Registration Statement, other than documents incorporated by reference, has been filed with the SEC and/or has become effective or any subsequent supplement to the Prospectus has been filed and of any request by the SEC for any amendment or supplement to the Registration Statement or Prospectus or for additional information; (ii) the Company will prepare and file with the SEC, promptly upon Agent's reasonable request, any amendments or supplements to the Registration Statement or Prospectus that, in Agent's reasonable opinion, may be necessary or advisable in connection with the distribution of the Placement Shares by Agent (provided, however, that (A) the failure of Agent to make such request will not relieve the Company of any obligation or liability hereunder, or affect Agent's right to rely on the representations and warranties made by the Company in this Agreement and (B) that the only remedy Agent will have respecting the failure to make such filing will be to cease making sales under this Agreement until such amendment or supplement is filed); (iii) the Company will not file any amendment or supplement to the Registration Statement or Prospectus relating to the Placement Shares unless a copy thereof has been submitted to Agent within a reasonable period of time before the filing and Agent has not reasonably objected thereto within two (2) Business Days (provided, however, that the failure of Agent to make such objection will not relieve the Company of any obligation or liability hereunder, or affect Agent's right to rely on the representations and warranties made by the Company in this Agreement and provided, further, that the only remedy Agent will have respecting the failure by the Company to provide Agent with such copy will be to cease making sales under this Agreement) and the Company will furnish to Agent at the time of filing thereof a copy of any document that upon filing is deemed to be incorporated by reference into the Registration Statement or Prospectus, except for those documents available via EDGAR; and (iv) the Company will cause each amendment or supplement to the Prospectus to be filed with the SEC as required pursuant to the applicable paragraph of Rule 424(b) of the Securities Act or, in the case of any document to be incorporated therein by reference, to be filed with the SEC as required pursuant to the Exchange Act, within the period prescribed (the determination to file or not file any amendment or supplement with the SEC under this Section 7(a), based on the Company's reasonable opinion or reasonable objections, will be made exclusively by the Company).

(b) Notice of SEC Stop Orders. The Company will advise Agent, promptly after it receives notice or obtains knowledge thereof, of the issuance or threatened issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement, of the suspension of the qualification of the Placement Shares for offering or sale in any jurisdiction, or of the initiation or threatening of any proceeding for any such purpose; and it will promptly use its commercially reasonable efforts to prevent the issuance of any stop order or to obtain its withdrawal if such a stop order should be issued. The Company will advise Agent promptly after it receives any request by the SEC for any amendments to the Registration Statement or any amendment or supplements to the Prospectus or any Issuer Free Writing Prospectus or for additional information related to the offering of the Placement Shares or for additional information related to the Registration Statement, the Prospectus or any Issuer Free Writing Prospectus.

(c) Delivery of Prospectus; Subsequent Changes. During any period in which a Prospectus relating to the Placement Shares is required to be delivered by Agent under the Securities Act respecting the offer and sale of the Placement Shares (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act) (the ***"Prospectus Delivery Period"***), the Company will comply with all requirements imposed upon it by the Securities Act, as from time to time in force, and to file on or before their respective due dates all reports (taking into account any extensions available under the Exchange Act) and any definitive proxy or information statements required to be filed by the Company with the SEC pursuant to Sections 13(a), 13(c), 14, 15(d), or any other provision of or under the Exchange Act. If the Company has omitted any information from the Registration Statement pursuant to Rule 430B under the Securities Act, it will use its commercially reasonable efforts to comply with the provisions of and make all requisite filings with the SEC pursuant to said Rule 430B and to notify Agent promptly of all such filings. If during the Prospectus Delivery Period any event occurs as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances then existing, not misleading, or if during the Prospectus Delivery Period it is necessary to amend or supplement the Registration Statement or Prospectus to comply with the Securities Act, the Company will promptly notify Agent to suspend the offering of Placement Shares during such period and the Company will promptly amend or supplement the Registration Statement or Prospectus (at the reasonable expense of the Company) so as to correct such statement or omission or effect such compliance; provided, however, that the Company may delay any amendment or supplement, if in the sole discretion of the Company, it is in the Company's best interest to do so.

(d) Listing of Placement Shares. During the Prospectus Delivery Period, the Company will use its commercially reasonable efforts to cause the Placement Shares to be listed on the Exchange.

(e) Delivery of Registration Statement and Prospectus. The Company will furnish to Agent and its counsel (at the reasonable expense of the Company) copies of the Registration Statement, the Prospectus (including all documents incorporated by reference therein) and all amendments and supplements to the Registration Statement or Prospectus that are filed with the SEC during the Prospectus Delivery Period (including all documents filed with the SEC during such period that are deemed to be incorporated by reference therein), in each case as soon as reasonably practicable and in such quantities as Agent may from time to time reasonably request and, at Agent's request, will also furnish copies of the Prospectus to each exchange or market on which sales of the Placement Shares may be made; provided, however, that the Company will not be required to furnish any document (other than the Prospectus) to Agent to the extent such document is available on EDGAR.

(f) Earnings Statement. The Company will make generally available to its security holders as soon as practicable, but in any event not later than 15 months after the end of the Company's current fiscal quarter, an earnings statement covering a 12-month period that satisfies the provisions of Section 11(a) and Rule 158 of the Securities Act. The Company's compliance with the reporting requirements of the Exchange Act shall be deemed to satisfy this Section 7(f).

(g) Use of Proceeds. The Company will use the Net Proceeds substantially as described in the Prospectus in the section entitled "Use of Proceeds."

(h) Notice of Other Sales. The Company will not, directly or indirectly, offer to sell, sell, contract to sell, grant any option to sell or otherwise dispose of any Common Stock (other than the Placement Shares offered pursuant to this Agreement) or securities convertible into or exchangeable for Common Stock, warrants or any rights to purchase or acquire, Common Stock in any public or private equity offerings ("***Other Sales***") without providing prior written notice delivered to Agent at least two (2) Business Days prior to the pricing of such Other Sale; provided, however, that such notice will not be required in connection with the Company's issuance, grant, or sale of: (1) Common Stock, options to purchase Common Stock, restricted shares of Common Stock, restricted stock units or other equity awards, or Common Stock issuable upon the exercise of options or other equity awards, pursuant to any employee or director stock option or benefits plan, stock ownership plan or dividend reinvestment plan (but not Common Stock subject to a waiver to exceed plan limits in its dividend reinvestment plan) of the Company whether now in effect or hereafter implemented; (2) Common Stock issuable upon the exchange, conversion or redemption of securities or the exercise of warrants, options or other rights in effect or outstanding, and disclosed in filings by the Company available on EDGAR or otherwise in writing to Agent; and (3) Common Stock or securities convertible into or exercisable for Common Stock as consideration for mergers, acquisitions, other business combinations, licensing agreements or strategic alliances, or offered and sold in a privately negotiated transaction to licensors, vendors, customers, strategic partners or potential strategic partners who are qualified institutional buyers and not more than three Persons that are "accredited investors" within the meaning of such term under paragraph (a)(1), (a)(2), (a)(3), (a)(7), or (a)(8) of Rule 501 under the Securities Act and otherwise conducted in a manner so as not to be integrated with the offering of Placement Shares contemplated hereby.

(i) Change of Circumstances. The Company will, at any time during the pendency of a Placement Notice, advise Agent promptly after it will have received notice or obtained knowledge thereof, of any information or fact that would alter or affect in any material respect any opinion, certificate, letter or other document required to be provided to Agent pursuant to this Agreement.

(j) Due Diligence Cooperation. The Company will cooperate with any reasonable due diligence review conducted by Agent or its representatives in connection with the transactions contemplated hereby, including providing information and making available documents and senior corporate officers, during regular business hours and at the Company's principal offices or such other location mutually agreed to by the parties, as Agent may reasonably request.

(k) Required Filings Relating to Placement of Placement Shares. The Company agrees that on such dates as the Securities Act requires, the Company will: (i) file a prospectus supplement with the SEC under the applicable paragraph of Rule 424(b) under the Securities Act (each and every filing under Rule 424(b), a ***"Filing Date"***), which prospectus supplement will set forth, within the relevant period, the amount of Placement Shares sold through Agent, the Net Proceeds to the Company and the compensation payable by the Company to Agent respecting such Placement Shares; and (ii) deliver such number of copies of each such prospectus supplement to each exchange or market on which such sales were effected as may be required by the rules or regulations of such exchange or market.

(l) Representation Dates; Certificate. On the date of this Agreement and each time the Company:

(i) files the Prospectus relating to the Placement Shares or amends or supplements (other than a prospectus supplement relating solely to an offering of securities other than the Placement Shares) the Registration Statement or the Prospectus relating to the Placement Shares by means of a post-effective amendment, sticker, or supplement but not by means of incorporation of documents by reference into the Registration Statement or the Prospectus relating to the Placement Shares;

(ii) files an annual report on Form 10-K under the Exchange Act (including any Form 10-K/A that contains restated financial statements);

(iii) files a quarterly report on Form 10-Q under the Exchange Act; or

(iv) files a current report on Form 8-K containing amended audited financial information (other than information "furnished" pursuant to Items 2.02 or 7.01 of Form 8-K or to provide disclosure pursuant to Item 8.01 of Form 8-K relating to the reclassification of certain properties as discontinued operations in accordance with Statement of Financial Accounting Standards No. 144) under the Exchange Act (each date of filing of one or more of the documents referred to in clauses (i) through (iv) will be a ***"Representation Date"***);

the Company will furnish Agent (but in the case of clause (iv) above only if Agent reasonably determines that the information contained in such Form 8-K is material) with a certificate, in the form attached hereto as Exhibit A. The requirement to provide a certificate under this Section 7(l) will be waived for any Representation Date occurring at a time at which no Placement Notice is pending, which waiver will continue until the earlier to occur of the date the Company delivers a Placement Notice hereunder (which for such calendar quarter will be considered a Representation Date) and the next occurring Representation Date; provided, however, that such waiver will not apply for any Representation Date on which the Company files its annual report on Form 10-K. Notwithstanding the foregoing, if the Company subsequently decides to sell Placement Shares following a Representation Date when the Company relied on such waiver and did not provide Agent with a certificate under this Section 7(l), then before the Company delivers the Placement Notice or Agent sells any Placement Shares, the Company will provide Agent with a certificate, in the form attached hereto as Exhibit A, dated the date of the Placement Notice.

(m) Legal Opinion. On the date of this Agreement and within two (2) Trading Days after each Representation Date for which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit A for which no waiver is applicable, the Company will cause to be furnished to Agent written opinions of Stradling Yocca Carlson & Rauth LLP (***"Company Counsel"***), or other counsel reasonably satisfactory to Agent, in form and substance reasonably satisfactory to Agent and its counsel; provided, however, the Company will be required to furnish to Agent no more than one (1) opinion hereunder per calendar quarter, except that the Company shall furnish an opinion in connection with any Representation Date that involves a material amendment to the Registration Statement or amends or supplement the Prospectus; provided, further, that in lieu of such opinions for subsequent periodic filings under the Exchange Act, Company Counsel may furnish Agent with a letter (a ***"Reliance Letter"***) to the effect that Agent may rely on a prior opinion delivered under this Section 7(m) to the same extent as if it were dated the date of such letter (except that statements in such prior opinion will be deemed to relate to the Registration Statement and the Prospectus as amended or supplemented as of the date of the Reliance Letter).

(n) Comfort Letters. On the date of this Agreement and within two (2) Trading Days after each Representation Date (other than pursuant to Section 7(l)(iii), for which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit A for which no waiver is applicable, the Company will cause its Accountants to furnish Agent letters (the ***"Comfort Letters"***), dated the date the Comfort Letters are delivered, which will meet the requirements set forth in this Section 7(n). The Comfort Letter from each of the Accountants will be in a form and substance reasonably satisfactory to Agent: (i) confirming that they are an independent public accounting firm within the meaning of the Securities Act and the PCAOB; (ii) stating, as of such date, the conclusions and findings of such firm respecting the financial information and other matters ordinarily covered by accountants' "comfort letters" to underwriters in connection with registered public offerings (the first such letter, the ***"Initial Comfort Letter"***); and (iii) updating the Initial Comfort Letter with any information that would have been included in the Initial Comfort Letter had it been given on such date and modified as necessary to relate to the Registration Statement and the Prospectus, as amended and supplemented to the date of such letter.

(o) Secretary's Certificate. On the date of this Agreement, Agent shall have received a certificate, signed on behalf of the Company by its corporate Secretary, certifying as to (i) the Certificate of Incorporation of the Company, (ii) the Bylaws of the Company, (iii) the resolutions of the Board of Directors of the Company (or a committee thereof) authorizing the execution, delivery and performance of this Agreement and the issuance of the Placement Shares and (iv) the incumbency of the officers duly authorized to execute this Agreement and the other documents contemplated by this Agreement.

(p) Chief Financial Officer's Certificate. On the date of this Agreement and each Representation Date pursuant to Section 7(l)(iii), for which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit A for which no waiver is applicable, the Company will cause its Chief Financial Officer to furnish Agent a certificate, signed on behalf of the Company by its Chief Financial Officer in the form attached hereto as Exhibit B.

(q) Market Activities. The Company will not, directly or indirectly: (i) take any action designed to cause or result in, or that constitutes or might reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of Common Stock; or (ii) sell, bid for, or purchase Common Stock in violation of Regulation M, or pay anyone any compensation for soliciting purchases of the Placement Shares other than Agent; provided, however, that the Company may bid for and purchase shares of its Common Stock in accordance with Rule 10b-18 under the Exchange Act.

(r) Investment Company Act. The Company will conduct its affairs in such a manner so as to reasonably ensure that neither it nor any of its Subsidiaries will be or become, at any time prior to the termination of this Agreement, required to be registered as an "investment company," as such term is defined in the Investment Company Act, assuming no material change in the SEC's current interpretation as to entities that are not considered an investment company.

(s) No Offer to Sell. Other than the Prospectus and an Issuer Free Writing Prospectus approved in advance by the Company and Agent in its capacity as agent hereunder, neither Agent nor the Company (including its agents and representatives, other than Agent in its capacity as such) will make, use, prepare, authorize, approve, or refer to any written communication (as defined in Rule 405 under the Securities Act), required to be filed with the SEC, that constitutes an offer to sell or solicitation of an offer to buy Placement Shares hereunder.

(t) Sarbanes-Oxley Act. The Company and the Subsidiaries will use commercially reasonable efforts to maintain and keep accurate books and records reflecting their assets and maintain internal accounting controls in a manner designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and including those policies and procedures that: (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit the preparation of the Company's consolidated financial statements in accordance with generally accepted accounting principles; (iii) provide reasonable assurance that receipts and expenditures of the Company are being made only in accordance with management's and the Company's directors' authorization; and (iv) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on its financial statements. The Company and the Subsidiaries will use commercially reasonable efforts to maintain such controls and other procedures, including those required by Sections 302 and 906 of the Sarbanes-Oxley Act, and the applicable regulations thereunder that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the periods specified in the SEC's rules and forms, including controls and procedures designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive officer and principal financial officer, or individuals performing similar functions, as appropriate to allow timely decisions regarding required disclosure and to ensure that material information relating to the Company or the Subsidiaries is made known to them by others within those entities, particularly during the period in which such periodic reports are being prepared.

Section 8. Representations and Covenants of Agent. Agent represents and warrants that it is duly registered as a broker-dealer under FINRA, the Exchange Act, and the applicable statutes and regulations of each state in which the Placement Shares will be offered and sold, except such states in which Agent is exempt from registration or such registration is not otherwise required. Agent will continue, for the term of this Agreement, to be duly registered as a broker-dealer under FINRA, the Exchange Act, and the applicable statutes and regulations of each state in which the Placement Shares will be offered and sold, except such states in which Agent is exempt from registration or such registration is not otherwise required, during the term of this Agreement. Agent will comply with all applicable law and regulations in connection with the Placement Shares, including Regulation M and other anti-manipulation rules under the Exchange Act.

Section 9. Payment of Expenses. The Company agrees to reimburse Agent upon request for its reasonable costs and out-of-pocket expenses incurred in connection with providing its services under this Agreement, including the reasonable documented fees and out-of-pocket expenses of its legal counsel subject to the Fee Cap (defined below). The Company shall bear and be responsible for all expenses which are customarily borne by issuers for transactions of the type set forth herein. Legal fees and out-of-pocket expenses for the offering incurred by Agent and paid by the Company shall not exceed (collectively, the ***"Fee Cap"***): (a) up to $50,000 of the reasonable documented fees and out-of-pocket expenses of Agent's legal counsel, due and payable upon filing of the Prospectus with the Commission; and (b) for so long as an offering is ongoing and sales are made in the period covered by the relevant Form 10-Q or Form 10-K, as applicable, the Company will pay the reasonable documented legal fees incurred by Agent in connection with updating due diligence in connection with the offering not to exceed $3,500 per calendar quarter.

Section 10. Conditions to Agent's Obligations. The obligations of Agent hereunder respecting a Placement will be subject to the continuing accuracy and completeness of the representations and warranties made by the Company herein (other than those representations and warranties made as of a specified date or time), to the due performance by the Company in all material respects of its obligations hereunder, to the completion by Agent of a due diligence review satisfactory to it in its reasonable judgment, and to the continuing reasonable satisfaction (or waiver by Agent in its sole discretion) of the following additional conditions:

(a) Registration Statement Effective. The Company shall at all times maintain in effect the Registration Statement, which will be available for the sale of all Placement Shares contemplated to be issued by any Placement Notice.

(b) No Material Notices. None of the following events will have occurred and be continuing: (i) receipt by the Company of any request for additional information from the SEC or any other federal or state governmental authority during the period of effectiveness of the Registration Statement the response to which would require any post-effective amendments or supplements to the Registration Statement or the Prospectus; (ii) the issuance by the SEC or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; (iii) receipt by the Company of any notification respecting the suspension of the qualification or exemption from qualification of any of the Placement Shares for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; or (iv) the occurrence of any event that requires the making of any changes in the Registration Statement, the Prospectus or related documents so that, in the case of the Registration Statement, it will not contain any materially 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 not misleading and, in the case of the Prospectus, it will not contain any materially 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 the light of the circumstances under which they were made, not misleading.

(c) No Misstatement or Material Omission. Agent will not have been advised by the Company that the Registration Statement or Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact that in Agent's reasonable opinion, in consultation with counsel, is material, or omits to state a fact that in Agent's reasonable opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(d) Material Changes. Except as contemplated in the Prospectus, or disclosed in the Company's reports filed with the SEC, there will not have been any material adverse change, on a consolidated basis, in the authorized capital stock of the Company or any Material Adverse Effect, or any development that would reasonably be expected to cause a Material Adverse Effect.

(e) Legal Opinion. Agent will have received the opinions of Company Counsel required to be delivered pursuant Section 7(m) on or before the date on which such delivery of such opinions is required pursuant to Section 7(m).

(f) Comfort Letters. Agent will have received the Comfort Letters required to be delivered pursuant Section 7(n) on or before the date on which such delivery of such letter is required pursuant to Section 7(n).

(g) Representation Certificate. Agent will have received the certificate required to be delivered pursuant to Section 7(l) on or before the date on which delivery of such certificate is required pursuant to Section 7(l).

(h) Secretary's Certificate. Agent will have received the Secretary's certificate required to be delivered pursuant to Section 7(o) on or before the date on which delivery of such certificate is required pursuant to Section 7(o).

(i) Chief Financial Officer's Certificate. Agent will have received the Chief Financial Officers' certificate required to be delivered pursuant to Section 7(p) on or before the date on which delivery of such certificate is required pursuant to Section 7(p).

(j) No Suspension. Trading in the Common Stock will not have been suspended on the Exchange and the Common Stock will not have been delisted from the Exchange.

(k) Other Materials. On each date on which the Company is required to deliver a certificate pursuant to Section 7(l), the Company will have furnished to Agent such appropriate further information, certificates, and documents as Agent may reasonably request and that are usually and customarily furnished by an issuer of securities in connection with a securities offering. All such opinions, certificates, letters, and other documents will be in compliance with the provisions hereof. The Company will furnish Agent with such conformed copies of such opinions, certificates, letters, and other documents as Agent will reasonably request.

(l) Securities Act Filings Made. All filings with the SEC required by Rule 424 with respect to the Placement Shares under the Securities Act to have been filed prior to the issuance of any Placement Notice hereunder will have been made within the applicable period prescribed for such filing by Rule 424.

(m) Approval for Listing. The Placement Shares will either have been approved for listing on the Exchange, subject only to notice of issuance, or the Company will have filed an application for listing of the Placement Shares on the Exchange at, or prior to, the issuance of any Placement Notice.

(n) No Termination Event. No event will have occurred that would permit Agent to terminate this Agreement pursuant to Section 13(a).

(o) FINRA. If applicable, FINRA shall have raised no objection to the terms of this offering and the amount of compensation allowable or payable to Agent as described in the Prospectus.

Section 11. Indemnification and Contribution.

(a) Company Indemnification. The Company agrees to indemnify and hold harmless Agent, its partners, members, directors, officers, employees, and agents and each Person, if any, who controls Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act as follows:

(i) against any and all loss, liability, claim, damage, and expense whatsoever, as incurred, joint or several, arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, or arising out of any untrue statement or alleged untrue statement of a material fact included in any related Issuer Free Writing Prospectus or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, joint or several, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that any such settlement is effected with the written consent of the Company, which consent will not unreasonably be delayed or withheld; and

(iii) against any and all expense whatsoever, as incurred (including the reasonable fees and disbursements of counsel), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement will not apply to any loss, liability, claim, damage, or expense to the extent arising out of Agent's gross negligence or willful misconduct or any untrue statement or omission or alleged untrue statement or omission made solely in reliance upon and in conformity with written information furnished to the Company by Agent expressly for use in the Registration Statement (or any amendment thereto), or in any related Issuer Free Writing Prospectus or the Prospectus (or any amendment or supplement thereto).

(b) Agent Indemnification. Agent agrees to indemnify and hold harmless the Company and its directors and each officer of the Company who signed the Registration Statement, and each Person, if any, that: (i) controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act; or (ii) is controlled by or is under common control with the Company against any and all loss, liability, claim, damage, and expense described in the indemnity contained in Section 11(a), as incurred, but only respecting untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendments thereto), the Prospectus (or any amendment or supplement thereto) or any Free Writing Prospectus in reliance upon and in conformity with information furnished to the Company in writing by Agent expressly for use therein.

(c) Procedure.

(i) Any party that proposes to assert the right to be indemnified under this Section 11 will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim is to be made against an indemnifying party or parties under this Section 11, notify each such indemnifying party of the commencement of such action, enclosing a copy of all papers served, but the omission so to notify such indemnifying party will not relieve the indemnifying party from: (1) any liability that it might have to any indemnified party otherwise than under this Section 11; and (2) any liability that it may have to any indemnified party under the foregoing provision of this Section 11 unless, and only to the extent that, such omission results in the forfeiture or material impairment of substantive rights or defenses by the indemnifying party.

(ii) If any such action is brought against any indemnified party and it notifies the indemnifying party of its commencement, the indemnifying party will be entitled to participate in and, to the extent that it elects by delivering written notice to the indemnified party promptly after receiving notice of the commencement of the action from the indemnified party, jointly with any other indemnifying party similarly notified, to assume the defense of the action, with counsel reasonably satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its election to assume the defense, the indemnifying party will not be liable to the indemnified party for any legal or other expenses except as provided below and except for the reasonable and documented costs of investigation subsequently incurred by the indemnified party in connection with the defense.

(iii) The indemnified party will have the right to employ its own counsel in any such action, but the fees, expenses and other charges of such counsel will be at the expense of such indemnified party unless: (1) the employment of counsel by the indemnified party has been authorized in writing by the indemnifying party; (2) the indemnified party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party; (3) a conflict or potential conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party); or (4) the indemnifying party has not in fact employed counsel to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable and documented fees, disbursements and other charges of counsel will be at the expense of the indemnifying party or parties.

(iv) It is understood that the indemnifying party or parties will not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable and documented fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time for all such indemnified party or parties. All such fees, disbursements, and other charges will be reimbursed by the indemnifying party promptly after the indemnifying party receives a written invoice relating to fees, disbursements and other charges in reasonable detail.

(v) An indemnifying party will not, in any event, be liable for any settlement of any action or claim effected without its written consent. No indemnifying party will, without the prior written consent of each indemnified party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, or proceeding relating to the matters contemplated by this Section 11 (whether or not any indemnified party is a party thereto), unless such settlement, compromise or consent: (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding, or claim; and (ii) does not include a statement as to or an admission of fault, culpability, or a failure to act by or on behalf of any indemnified party.

(d) Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in the foregoing paragraphs of this Section 11 is applicable in accordance with its terms but for any reason is held to be unavailable from the Company or Agent, the Company and Agent will contribute to the total losses, claims, liabilities, expenses, and damages (including any investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted, but after deducting any contribution received by the Company from Persons other than Agent, such as Persons that control the Company within the meaning of the Securities Act, officers of the Company who signed the Registration Statement and directors of the Company, who also may be liable for contribution) to which the Company and Agent may be subject in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and Agent, on the other hand. The relative benefits received by the Company, on the one hand, and Agent, on the other hand, will be deemed to be in the same proportion as the total Net Proceeds from the sale of the Placement Shares (before deducting expenses) received by the Company bear to the total compensation received by Agent (before deducting expenses) from the sale of Placement Shares on behalf of the Company, provided that in no case shall the Agent be responsible for any amounts in excess of the fee applicable to the Placement Shares and paid hereunder. If, but only if, the allocation provided by the foregoing sentence is not permitted by applicable law, the allocation of contribution will be made in such proportion as is appropriate to reflect not only the relative benefits referred to in the foregoing sentence but also the relative fault of the Company, on the one hand, and Agent, on the other hand, respecting the statements or omission that resulted in such loss, claim, liability, expense or damage, or action in respect thereof, as well as any other relevant equitable considerations respecting such offering. Such relative fault will be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or Agent, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and Agent agree that it would not be just and equitable if contributions pursuant to this Section 11(d) were to be determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, liability, expense, or damage, or action in respect thereof, referred to above in this Section 11(d) will be deemed to include, for the purpose of this Section 11(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim to the extent consistent with Section 11(c) hereof. Notwithstanding the foregoing provisions of this Section 11(d), Agent will not be required to contribute any amount in excess of the commissions received by it under this Agreement and no Person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 11(d), any Person who controls a party to this Agreement within the meaning of the Securities Act, and any officers, directors, partners, employees or agents of Agent, will have the same rights to contribution as that party, and each officer and director of the Company who signed the Registration Statement will have the same rights to contribution as the Company, subject in each case to the provisions hereof. Any party entitled to contribution, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made under this Section 11(d), will notify any such party or parties from whom contribution may be sought, but the omission to so notify will not relieve that party or parties from whom contribution may be sought from any other obligation it or they may have under this Section 11(d) except to the extent that the failure to so notify such other party materially prejudiced the substantive rights or defenses of the party from whom contribution is sought. Except for a settlement entered into pursuant to the last sentence of Section 11(c) hereof, no party will be liable for contribution respecting any action or claim settled without its written consent if such consent is required pursuant to Section 11(c) hereof.

Section 12. Representations and Agreements to Survive Delivery. The indemnity and contribution agreements contained in Section 11 of this Agreement and all representations and warranties of the Company herein or in certificates delivered pursuant hereto will survive, as of their respective dates, regardless of: (a) any investigation made by or on behalf of Agent, any controlling Persons, or the Company (or any of their respective officers, directors, or controlling Persons); (b) delivery and acceptance of the Placement Shares and payment therefor; or (c) any termination of this Agreement.

Section 13. Termination.

(a) Agent may terminate this Agreement, by notice to the Company, as hereinafter specified at any time: (i) if there has been, since the time of execution of this Agreement or since the date as of which information is given in the Prospectus, any Material Adverse Effect, or any development has occurred that is reasonably likely to have a Material Adverse Effect or in the sole judgment of Agent makes it impractical or inadvisable to market the Placement Shares or to enforce contracts for the sale of the Placement Shares; (ii) if there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of Agent, impracticable or inadvisable to market the Placement Shares or to enforce contracts for the sale of the Placement Shares; (iii) if trading in the Common Stock has been suspended or limited by the SEC or the Exchange, or if trading generally on the Exchange has been suspended or limited, or minimum prices for trading have been fixed on the Exchange; (iv) if any suspension of trading of any securities of the Company on any exchange or in the over-the-counter market will have occurred and be continuing; (v) if a major disruption of securities settlements or clearance services in the United States will have occurred and be continuing; or (vi) if a banking moratorium has been declared by either U.S. Federal or New York authorities. Any such termination will be without liability of any party to any other party except that the provisions of Section 9 (Expenses), Section 11 (Indemnification), Section 12 (Survival of Representations), Section 18 (Applicable Law; Waiver of Jury Trial), and Section 19 (Consent to Jurisdiction) hereof will remain in full force and effect notwithstanding such termination. If Agent elects to terminate this Agreement as provided in this Section 13(a), Agent will provide the required notice as specified in Section 14 (Notices).

(b) (i) The Company will have the right, by giving ten (10) days' notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement.

(ii) If Agent declines any commercially reasonable placement notice pursuant to Section 2 of this Agreement, then the Company will have the right to terminate this Agreement by giving written notice of termination to Agent. Any such termination will be effective immediately upon a delivery of a termination notice by the Company to Agent.

Any termination pursuant to Section 13(b) will be without liability of any party to any other party except that the provisions of Section 9, Section 11, Section 12, Section 18, and Section 19 hereof will remain in full force and effect notwithstanding such termination.

(c) Agent will have the right, by giving three (3) days' notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. Any such termination will be without liability of any party to any other party except that the provisions of Section 9, Section 11, Section 12, Section 18, and Section 19 hereof will remain in full force and effect notwithstanding such termination.

(d) Unless earlier terminated pursuant to this Section 13, this Agreement will automatically terminate upon the earlier to occur of: (i) the eighteen-month anniversary of the date hereof; or (ii) the issuance and sale of all of the Placement Shares through Agent on the terms and subject to the conditions set forth herein, except that, in either such case, the provisions of Section 9, Section 11, Section 12, Section 18 and Section 19 hereof will remain in full force and effect notwithstanding such termination.

(e) This Agreement will remain in full force and effect unless terminated pursuant to Section 13(a), Section 13(b), Section 13(c), Section 13(d) above or otherwise by mutual agreement of the parties. Upon termination of this Agreement, the Company will not have any liability to Agent for any discount, commission, or other compensation respecting any Placement Shares not otherwise sold by Agent under this Agreement, except for any Placement Shares for which a Placement Notice has been delivered and accepted but which have not yet settled as of the termination date.

(f) Any termination of this Agreement will be effective on the date specified in such notice of termination; provided, however, that such termination will not be effective until the close of business on the date of receipt of such notice by Agent or the Company, as the case may be. If such termination will occur prior to the Settlement Date for any sale of Placement Shares, such Placement Shares will settle in accordance with the provisions of this Agreement.

(g) Subject to the additional limitations set forth in Section 8 of this Agreement, in the event of termination of this Agreement prior to the sale of any Placement Shares, Agent shall be entitled only to reimbursement of its reasonable and documented out-of-pocket expenses actually incurred.

Section 14. Notices.

(a) All notices or other communications required or permitted to be given by any party to any other party pursuant to the terms of this Agreement will be in writing, unless otherwise specified, and if sent to Agent, will be delivered to:

H.C. Wainwright & Co., LLC
430 Park Avenue, 3rd Floor
New York, NY 10022
Attn: Chief Executive Officer
Email: notices@hcwco.com

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

Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas
New York, NY 10105
Attn: John J. Hart
Email: capmkts@egsllp.com

and if to the Company, will be delivered to:

Expion Energy, Inc.
2025 SW Deerhound Avenue
Redmond, OR 97756
Attn: Kevin Sellers
Email: kevin@expionenergy.com

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

Stradling Yocca Carlson & Rauth LLP
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
Attn: Ryan Wilkins, Esq.
Email: RWilkins@stradlinglaw.com

(b) Each such notice or other communication will be deemed given: (i) when delivered personally on or before 4:30 p.m., New York City time, on a Business Day or, if such day is not a Business Day, on the next succeeding Business Day; or (ii) on the next Business Day after timely delivery to a nationally recognized overnight courier. For purposes of this Agreement, ***"Business Day"*** will mean any day on which the Exchange and commercial banks in the City of New York are open for business.

(c) An electronic communication (***"Electronic Notice"***) will be deemed written notice for purposes of this Section 14 if sent to the electronic mail address specified by the receiving party under separate cover. Electronic Notice will be deemed received at the time the party sending Electronic Notice receives confirmation of receipt by the receiving party. Any party receiving Electronic Notice may request and will be entitled to receive the notice on paper, in a nonelectronic form (***"Nonelectronic Notice"***), which will be sent to the requesting party within 10 days of receipt of the written request for Nonelectronic Notice.

(d) Each party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose.

Section 15. Successors and Assigns. This Agreement will inure to the benefit of and be binding upon the Company and Agent and their respective successors and the affiliates, controlling Persons, partners, members, officers, directors, employees, and agents referred to in Section 11 hereof. References to any of the parties contained in this Agreement will be deemed to include the successors and permitted assigns of such party. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party.

Section 16. Adjustments for Stock Splits. The parties acknowledge and agree that all share-related numbers contained in this Agreement will be automatically adjusted to take into account any share consolidation, stock split, stock dividend, corporate domestication or similar event effected with respect to the Placement Shares.

Section 17. Entire Agreement; Amendment; Severability. This Agreement (including all schedules and exhibits attached hereto and Placement Notices issued pursuant hereto), by and between the Company and Agent constitutes the entire agreement of the parties respecting the subject matter hereof and thereof and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof and thereof, provided that, notwithstanding anything herein to the contrary, the letter agreement, dated October 9, 2026, by and between the Company and the Agent shall continue to be effective and the terms therein shall continue to survive and be enforceable by the Agent in accordance with its terms. Neither this Agreement nor any term hereof may be amended except pursuant to a written instrument executed by the Company and Agent. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal, or unenforceable as written by a court of competent jurisdiction, then such provision will be given full force and effect to the fullest possible extent that it is valid, legal, and enforceable, and the remainder of the terms and provisions herein will be construed as if such invalid, illegal, or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof will be in accordance with the intent of the parties as reflected in this Agreement.

Section 18. APPLICABLE LAW; WAIVER OF JURY TRIAL. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS. SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME. EACH PARTY 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 AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 19. CONSENT TO JURISDICTION. 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 WITH ANY TRANSACTION CONTEMPLATED HEREBY, 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 ANY SUCH COURT, THAT SUCH SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM OR THAT THE VENUE OF SUCH SUIT, ACTION OR PROCEEDING IS IMPROPER. 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 (CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED) TO SUCH PARTY AT THE ADDRESS IN EFFECT FOR NOTICES TO IT UNDER THIS AGREEMENT AND AGREES THAT SUCH SERVICE WILL CONSTITUTE GOOD AND SUFFICIENT SERVICE OF PROCESS AND NOTICE THEREOF. NOTHING CONTAINED HEREIN WILL BE DEEMED TO LIMIT IN ANY WAY ANY RIGHT TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW.

Section 20. Use of Information. Agent may not use any information gained in connection with this Agreement and the transactions contemplated by this Agreement, including due diligence, for any purpose except in connection with entering into this Agreement and providing services as distribution agent hereunder.

Section 21. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. Counterparts may be delivered via facsimile, email (including PDF or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and shall be valid and effective for all purposes.

Section 22. Effect of Headings. The section and exhibit headings herein are for convenience only and will not affect the construction hereof.

Section 23. Permitted Free Writing Prospectuses. The Company represents, warrants, and agrees that, unless it obtains the prior consent of Agent, and Agent represents, warrants and agrees that, unless it obtains the prior consent of the Company, it has not made and will not make any offer relating to the Placement Shares that would constitute an Issuer Free Writing Prospectus, or that would otherwise constitute a "free writing prospectus," as defined in Rule 405, required to be filed with the SEC. Any such free writing prospectus consented to by Agent or by the Company, as the case may be, is hereinafter referred to as a ***"Permitted Free Writing Prospectus."*** The Company represents and warrants that it has treated and agrees that it will treat each Permitted Free Writing Prospectus as an "issuer free writing prospectus," as defined in Rule 433, and has complied and will comply with the requirements of Rule 433 applicable to any Permitted Free Writing Prospectus, including timely filing with the SEC where required, legending, and recordkeeping. For the purposes of clarity, the parties hereto agree that all free writing prospectuses, if any, listed in Exhibit C hereto are Permitted Free Writing Prospectuses.

Section 24. Absence of Fiduciary Relationship. The Company acknowledges and agrees that:

(a) Agent is acting solely as agent in connection with the public offering of the Placement Shares and in connection with each transaction contemplated by this Agreement and the process leading to such transactions, and no fiduciary or advisory relationship between the Company or any of its respective affiliates, stockholders (or other equity holders), creditors or employees or any other party, on the one hand, and Agent, on the other hand, has been or will be created in respect of any of the transactions contemplated by this Agreement, irrespective of whether or not Agent has advised or is advising the Company on other matters, and Agent has no obligation to the Company respecting the transactions contemplated by this Agreement except the obligations expressly set forth in this Agreement and any obligations imposed by applicable laws and regulations;

(b) it is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement;

(c) Agent has not provided any legal, accounting, regulatory or tax advice respecting the transactions contemplated by this Agreement and it has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate;

(d) it is aware that Agent and its affiliates are engaged in a broad range of transactions that may involve interests that differ from those of the Company and Agent has no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship or otherwise; provided that Agent hereby agrees not to engage in any such transaction that would cause its interests to be in direct conflict with the best interests of the Company; and

(e) it waives, to the fullest extent permitted by law, any claims it may have against Agent for breach of fiduciary duty or alleged breach of fiduciary duty in connection with the sale of Placement Shares under this Agreement and agrees that Agent will not have any liability (whether direct or indirect, in contract, tort or otherwise) to it in respect of such a fiduciary duty claim or to any Person asserting a fiduciary duty claim on its behalf or in right of it or the Company, employees or creditors of Company, other than in respect of Agent's obligations under this Agreement and to keep information provided by the Company to Agent and Agent's counsel confidential to the extent not otherwise publicly available.

Section 25. Definitions. As used in this Agreement, the following terms have the respective meanings set forth below:

(a) ***"Applicable Time"*** means: (i) each Representation Date; and (ii) the time of each sale of any Placement Shares pursuant to this Agreement.

(b) ***"Issuer Free Writing Prospectus"*** means any "issuer free writing prospectus," as defined in Rule 433, relating to the Placement Shares.

(c) ***"Rule 164," "Rule 172," "Rule 405," "Rule 415," "Rule 424," "Rule 424(b)," "Rule 430A," "Rule 430B,"*** and ***"Rule 433"*** refer to such rules under the Securities Act Regulations.

(d) All references in this Agreement to financial statements and schedules and other information that is "contained," "included," or "stated" in the Registration Statement or the Prospectus (and all other references of like import) will be deemed to mean and include all such financial statements and schedules and other information that is incorporated by reference in the Registration Statement or the Prospectus, as the case may be.

(e) All references in this Agreement to the Registration Statement, the Prospectus or any amendment or supplement to any of the foregoing will be deemed to include the copy filed with the SEC pursuant to EDGAR; all references in this Agreement to any Issuer Free Writing Prospectus (other than any Issuer Free Writing Prospectuses that, pursuant to Rule 433, are not required to be filed with the SEC) will be deemed to include the copy thereof filed with the SEC pursuant to EDGAR; and all references in this Agreement to "supplements" to the Prospectus will include any supplements, "wrappers," or similar materials prepared in connection with any offering, sale, or private placement of any Placement Shares by Agent outside of the United States.

[*Signature Page Follows*]

If the foregoing correctly sets forth the understanding between the Company and Agent, please so indicate in the space provided below for that purpose, whereupon this letter will constitute a binding agreement between the Company and Agent.

Very truly yours,

EXPION ENERGY, INC.

By: /s/ Kevin Sellers
Name: Kevin Sellers
Title: Chief Executive Officer

ACCEPTED as of the date first-above written:

H.C. WAINWRIGHT & CO., LLC

By: /s/ Edward D. Silvera
Name: Edward D. Silvera
Title: Chief Operating Officer

ACCEPTED as of the date first-above written:

H.C. WAINWRIGHT & CO., LLC

By:
Name:
Title:

SCHEDULE 1

FORM OF PLACEMENT NOTICE

From: Expion Energy, Inc.

To: H.C. Wainwright & Co., LLC
Attention:

Subject: At-The-Market Issuance--Placement Notice

Gentlemen:

Pursuant to the terms and subject to the conditions contained in the At-The-Market Issuance Sales Agreement between Expion Energy, Inc., a Nevada corporation (the ***"Company")*** and H.C. Wainwright & Co., LLC (***"Agent")***, dated October 23, 2026, the Company hereby requests that Agent sell up to [●] shares of the Company's Common Shares, $0.001 par value, at a minimum market price of $[●] per share, during the period beginning [*month, day, time*] and ending [*month, day, time*].

SCHEDULE 2

Compensation

The Company will pay to Agent in cash, upon each sale of Placement Shares pursuant to this Agreement, an amount equal to three percent (3.0%) of the gross proceeds from each sale of Placement Shares.

SCHEDULE 3

Notice Parties

The Company: Kevin Sellers, Chief Executive Officer (Kevin@expionenergy.com), or Robert Winspear, Chief Financial Officer (BobW@expionenergy.com)

Agent: atm@hcwco.com

SCHEDULE 4

Subsidiaries

None.

Exhibit A

Form of Representation Date Certificate

The undersigned, each a duly qualified and elected officer of Expion Energy, Inc., a Nevada corporation (the ***"Company")***, does hereby certify in his or her respective capacity and on behalf of the Company, pursuant to Section 7(l) of the At-The-Market Issuance Sales Agreement, dated October 23, 2026 (the ***"Agreement")***, by and between the Company and H.C. Wainwright & Co., LLC, that to the best of the knowledge of each of the undersigned:

1. As of the date of this Certificate, (i) the Registration Statement does 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 not misleading and (ii) neither the Registration Statement nor the Prospectus 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 light of the circumstances under which they were made, not misleading and (iii) no event has occurred as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein not untrue or misleading.

2. Each of the representations and warranties of the Company contained in the Agreement (A) to the extent such representations and warranties are subject to qualifications and exceptions contained therein relating to materiality or Material Adverse Effect, are true and correct on and as of the date hereof with the same force and effect as if expressly made on and as of the date hereof, except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date, and (B) to the extent such representations and warranties are not subject to any qualifications or exceptions, are true and correct in all material respects as of the date hereof as if made on and as of the date hereof with the same force and effect as if expressly made on and as of the date hereof except for those representations and warranties that speak solely as of a specific date and which were so true and correct as of such date; and

3. Each of the covenants required to be performed by the Company in the Agreement on or prior to the date of the Agreement, this Representation Date, and each such other date as set forth in the Agreement, has been duly, timely and fully performed in all material respects and each condition required to be complied with by the Company on or prior to the date of the Agreement, this Representation Date, and each such other date as set forth in the Agreement has been duly, timely and fully complied with in all material respects.

4. Subsequent to the date of the most recent financial statements incorporated by reference into the Prospectus, there has been no Material Adverse Effect.

5. No stop order suspending the effectiveness of the Registration Statement or of any part thereof has been issued, and no proceedings for that purpose have been instituted or are pending or threatened by any securities or other governmental authority (including, without limitation, the SEC).

Stradling Yocca Carlson & Rauth LLP is entitled to rely on this certificate in connection with the opinions such firm may render pursuant to the Agreement. Capitalized terms used herein without definition shall have the meanings given to such terms in the Agreement.

[*Signature page follows*]

EXPION ENERGY, INC.

By: _____
Name: Kevin Sellers
Title: Chief Executive Officer

By: _____
Name: Robert Winspear
Title: Chief Financial Officer

Date: [●]

Exhibit B

Certificate of
Chief Financial Officer

[●], 2026

In connection with that certain At-The-Market Issuance Sales Agreement (the ***"Agreement"***), dated October 23, 2026 by and between Expion Energy, Inc. (the ***"Company"***) and H.C. Wainwright & Co., LLC (***"Agent"***), Robert Winspear in her capacity as Chief Financial Officer of the Company, hereby certifies that (capitalized terms used and not defined herein have the meanings ascribed to them in the Agreement):

1. I am the Chief Financial Officer of the Company and have been duly appointed to such position as of the date hereof.

2. As the Chief Financial Officer of the Company, I am: (a) responsible for the financial and accounting matters of the Company, including oversight of the financial and accounting functions and staff; (b) knowledgeable about the internal accounting records and accounting practices, systems, policies and procedures of the Company, (c) in a position of power, authority and oversight to be privy to all the financial records the Company to issue this certificate; and (d) knowledgeable about and, together with the Company's Chief Executive Officer, responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)).

3. I have read: [(i) the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2025, filed with the Securities and Exchange Commission (***"SEC")*** on March 17, 2026, and amended on Form 10-K/A filed with the SEC on April 30, 2026; (ii) the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2026, filed with the SEC on May 15, 2026; and (iii) the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2026, filed with the SEC on August 10, 2026 (collectively, the ***"Company Filings")***.

4. With regard to the Company Filings, I have compared the amounts therein to the corresponding amounts included in or derived from the Company's internal accounting records or schedules prepared by management from such accounting records for the applicable periods and found them to be in agreement. Such amounts are accurate in all material respects, and nothing has come to my attention that would cause me to believe that these amounts have been materially misstated or are materially misleading.

5. This certificate is being furnished to Agent solely to assist it in conducting and documenting its investigation of the affairs of the Company in connection with the offering of the Placement Shares covered by the Registration Statement and the Prospectus.

[*Signature page follows*]

EXPION ENERGY, INC.

By:
Name: Robert Winspear
Title: Chief Financial Officer

Date: [●]

Exhibit C

Permitted Free Writing Prospectuses

EXPION ENERGY, INC.,
Issuer

AND

[TRUSTEE],
Trustee

INDENTURE
Dated as of [_____]

Debt Securities

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INDENTURE

INDENTURE, dated as of [_____], among Expion Energy, Inc., a Nevada corporation (the "Company"), and [**TRUSTEE**], as trustee (the "Trustee"):

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of debt securities (hereinafter referred to as the "Securities"), in an unlimited aggregate principal amount to be issued from time to time in one or more series as in this Indenture provided, as registered Securities without coupons, to be authenticated by the certificate of the Trustee;

WHEREAS, to provide the terms and conditions upon which the Securities are to be authenticated, issued and delivered, the Company has duly authorized the execution of this Indenture; and

WHEREAS, all things necessary to make this Indenture a valid agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, in consideration of the premises and the purchase of the Securities by the holders thereof, it is mutually covenanted and agreed as follows for the equal and ratable benefit of the holders of Securities:

ARTICLE 1

DEFINITIONS

Section 1.01 Definitions of Terms.

The terms defined in this Section (except as in this Indenture or any indenture supplemental hereto otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section and shall include the plural as well as the singular. All other terms used in this Indenture that are defined in the Trust Indenture Act of 1939, as amended, or that are by reference in such Act defined in the Securities Act of 1933, as amended (except as herein or any indenture supplemental hereto otherwise expressly provided or unless the context otherwise requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date of the execution of this instrument.

"***Authenticating Agent***" means the Trustee or an authenticating agent with respect to all or any of the series of Securities appointed by the Trustee pursuant to Section 2.10.

"***Bankruptcy Law***" means Title 11, U.S. Code, or any similar federal or state law for the relief of debtors.

"***Board of Directors***" means the Board of Directors (or the functional equivalent thereof) of the Company or any duly authorized committee of such Board.

"***Board Resolution***" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors (or duly authorized committee thereof) and to be in full force and effect on the date of such certification.

"***Business Day***" means, with respect to any series of Securities, any day other than a day on which federal or state banking institutions in the Borough of Manhattan, the City of New York, or in the city of the Corporate Trust Office of the Trustee, are authorized or obligated by law, executive order or regulation to close.

"***Commission***" means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

"***Company***" means Expion Energy, Inc., a corporation duly organized and existing under the laws of the State of Nevada, and, subject to the provisions of Article Ten, shall also include its successors and assigns.

"***Corporate Trust Office***" means the office of the Trustee at which, at any particular time, its corporate trust business shall be principally administered, which office at the date hereof is located at .

"***Custodian***" means any receiver, trustee, assignee, liquidator or similar official under any Bankruptcy Law.

"***Defaulted Interest***" has the meaning set forth in Section 2.03.

"***Depositary***" means, with respect to Securities of any series for which the Company shall determine that such Securities will be issued as a Global Security, The Depository Trust Company, another clearing agency, or any successor registered as a clearing agency under the Exchange Act, or other applicable statute or regulation, which, in each case, shall be designated by the Company pursuant to either Section 2.01 or 2.11.

"***Event of Default***" means, with respect to Securities of a particular series, any event specified in Section 6.01, continued for the period of time, if any, therein designated.

"***Exchange Act***" means the United States Securities and Exchange Act of 1934, as amended, and the rules and regulations promulgated by the Commission thereunder.

The term "***given***", "***mailed***", "***notify***" or "***sent***" with respect to any notice to be given to a Securityholder pursuant to this Indenture, shall mean notice (x) given to the Depositary (or its designee) pursuant to the standing instructions from the Depositary or its designee, including by electronic mail in accordance with accepted practices or procedures at the Depositary (in the case of a Global Security) or (y) mailed to such Securityholder by first class mail, postage prepaid, at its address as it appears on the Security Register (in the case of a definitive Security). Notice so "given" shall be deemed to include any notice to be "mailed" or "delivered," as applicable, under this Indenture.

"***Global Security***" means a Security issued to evidence all or a part of any series of Securities which is executed by the Company and authenticated and delivered by the Trustee to the Depositary or pursuant to the Depositary's instruction, all in accordance with the Indenture, which shall be registered in the name of the Depositary or its nominee.

"***Governmental Obligations***" means securities that are (a) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America that, in either case, are not callable or redeemable at the option of the issuer thereof at any time prior to the stated maturity of the Securities, and shall also include a depositary receipt issued by a bank or trust company as custodian with respect to any such Governmental Obligation or a specific payment of principal of or interest on any such Governmental Obligation held by such custodian for the account of the holder of such depositary receipt; provided, however, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the Governmental Obligation or the specific payment of principal of or interest on the Governmental Obligation evidenced by such depositary receipt.

"***herein***", "***hereof***" and "***hereunder***", and other words of similar import, refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

"***Indenture***" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into in accordance with the terms hereof and shall include the terms of particular series of Securities established as contemplated by Section 2.01.

"***Interest Payment Date***", when used with respect to any installment of interest on a Security of a particular series, means the date specified in such Security or in a Board Resolution or in an indenture supplemental hereto with respect to such series as the fixed date on which an installment of interest with respect to Securities of that series is due and payable.

"***Officer***" means, with respect to the Company, the chairman of the Board of Directors, a chief executive officer, a president, a chief financial officer, a chief operating officer, a chief legal officer, any executive vice president, any senior vice president, any vice president, the treasurer or any assistant treasurer, the controller or any assistant controller or the secretary or any assistant secretary.

"***Officer's Certificate***" means a certificate signed by any Officer. Each such certificate shall include the statements provided for in Section 13.07, if and to the extent required by the provisions thereof.

"***Opinion of Counsel***" means an opinion in writing subject to customary exceptions of legal counsel, who may be an employee of or counsel for the Company, that is delivered to the Trustee in accordance with the terms hereof. Each such opinion shall include the statements provided for in Section 13.07, if and to the extent required by the provisions thereof.

"***Outstanding***", when used with reference to Securities of any series, means, subject to the provisions of Section 8.04, as of any particular time, all Securities of that series theretofore authenticated and delivered by the Trustee under this Indenture, except (a) Securities theretofore canceled by the Trustee or any paying agent, or delivered to the Trustee or any paying agent for cancellation or that have previously been canceled; (b) Securities or portions thereof for the payment or redemption of which moneys or Governmental Obligations in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own paying agent); provided, however, that if such Securities or portions of such Securities are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article Three, or provision satisfactory to the Trustee shall have been made for giving such notice; and (c) Securities in lieu of or in substitution for which other Securities shall have been authenticated and delivered pursuant to the terms of Section 2.07.

"***Person***" means any individual, corporation, partnership, joint venture, joint-stock company, limited liability company, association, trust, unincorporated organization, any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"***Predecessor Security***" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 2.07 in lieu of a lost, destroyed or stolen Security shall be deemed to evidence the same debt as the lost, destroyed or stolen Security.

"***Responsible Officer***" when used with respect to the Trustee means any officer within the Corporate Trust Office of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject and in each case who shall have direct responsibility for the administration of this Indenture.

"***Securities***" has the meaning stated in the first recital of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture.

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

"***Securityholder***", "***holder of Securities***", "***registered holder***", or other similar term, means the Person or Persons in whose name or names a particular Security is registered on the Security Register kept for that purpose in accordance with the terms of this Indenture.

"***Security Register***" and "***Security Registrar***" shall have the meanings as set forth in Section 2.05.

"***Subsidiary***" means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of capital stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

"***Trustee***" means [_____], and, subject to the provisions of Article Seven, shall also include its successors and assigns, and, if at any time there is more than one Person acting in such capacity hereunder, "Trustee" shall mean each such Person. The term "Trustee" as used with respect to a particular series of the Securities shall mean the trustee with respect to that series.

"***Trust Indenture Act***" means the Trust Indenture Act of 1939, as amended, and the rules and regulations promulgated by the Commission thereunder.

"U.S.A. Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, as amended and signed into law October 26, 2001.

ARTICLE 2

ISSUE, DESCRIPTION, TERMS, EXECUTION, REGISTRATION AND EXCHANGE OF SECURITIES

Section 2.01 Designation and Terms of Securities.

(a) The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more series up to the aggregate principal amount of Securities of that series from time to time authorized by or pursuant to a Board Resolution or pursuant to one or more indentures supplemental hereto. Prior to the initial issuance of Securities of any series, there shall be established in or pursuant to a Board Resolution, and set forth in an Officer's Certificate, or established in one or more indentures supplemental hereto:

(1) the title of the Securities of the series (which shall distinguish the Securities of that series from all other Securities);

(2) any limit upon the aggregate principal amount of the Securities of that series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of that series);

(3) the maturity date or dates on which the principal of the Securities of the series is payable;

(4) the form of the Securities of the series including the form of the certificate of authentication for such series;

(5) the applicability of any guarantees;

(6) whether or not the Securities will be secured or unsecured, and the terms of any secured debt;

(7) whether the Securities rank as senior debt, senior subordinated debt, subordinated debt or any combination thereof, and the terms of any subordination;

(8) if the price (expressed as a percentage of the aggregate principal amount thereof) at which such Securities will be issued is a price other than the principal amount thereof, the portion of the principal amount thereof payable upon declaration of acceleration of the maturity thereof, or if applicable, the portion of the principal amount of such Securities that is convertible into another security or the method by which any such portion shall be determined;

(9) the interest rate or rates, which may be fixed or variable, or the method for determining the rate and the date interest will begin to accrue, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining such dates;

(10) the Company's right, if any, to defer the payment of interest and the maximum length of any such deferral period;

(11) if applicable, the date or dates after which, or the period or periods during which, and the price or prices at which, the Company may at its option, redeem the series of Securities pursuant to any optional or provisional redemption provisions and the terms of those redemption provisions;

(12) the date or dates, if any, on which, and the price or prices at which the Company is obligated, pursuant to any mandatory sinking fund or analogous fund provisions or otherwise, to redeem, or at the Securityholder's option to purchase, the series of Securities and the currency or currency unit in which the Securities are payable;

(13) the denominations in which the Securities of the series shall be issuable, if other than denominations of one thousand U.S. dollars ($1,000) or any integral multiple thereof;

(14) any and all terms, if applicable, relating to any auction or remarketing of the Securities of that series and any security for the obligations of the Company with respect to such Securities and any other terms which may be advisable in connection with the marketing of Securities of that series;

(15) whether the Securities of the series shall be issued in whole or in part in the form of a Global Security or Securities; the terms and conditions, if any, upon which such Global Security or Securities may be exchanged in whole or in part for other individual Securities; and the Depositary for such Global Security or Securities;

(16) if applicable, the provisions relating to conversion or exchange of any Securities of the series and the terms and conditions upon which such Securities will be so convertible or exchangeable, including the conversion or exchange price, as applicable, or how it will be calculated and may be adjusted, any mandatory or optional (at the Company's option or the holders' option) conversion or exchange features, the applicable conversion or exchange period and the manner of settlement for any conversion or exchange, which may, without limitation, include the payment of cash as well as the delivery of securities;

(17) if other than the full principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof pursuant to Section 6.01;

(18) additions to or changes in the covenants applicable to the series of Securities being issued, including, among others, the consolidation, merger or sale covenant;

(19) additions to or changes in the Events of Default with respect to the Securities and any change in the right of the Trustee or the Securityholders to declare the principal, premium, if any, and interest, if any, with respect to such Securities to be due and payable;

(20) additions to or changes in or deletions of the provisions relating to covenant defeasance and legal defeasance;

(21) additions to or changes in the provisions relating to satisfaction and discharge of this Indenture;

(22) additions to or changes in the provisions relating to the modification of this Indenture both with and without the consent of Securityholders of Securities issued under this Indenture;

(23) the currency of payment of Securities if other than U.S. dollars and the manner of determining the equivalent amount in U.S. dollars;

(24) whether interest will be payable in cash or additional Securities at the Company's or the Securityholders' option and the terms and conditions upon which the election may be made;

(25) the terms and conditions, if any, upon which the Company shall pay amounts in addition to the stated interest, premium, if any and principal amounts of the Securities of the series to any Securityholder that is not a "United States person" for federal tax purposes;

(26) any restrictions on transfer, sale or assignment of the Securities of the series; and

(27) any other specific terms, preferences, rights or limitations of, or restrictions on, the Securities, any other additions or changes in the provisions of this Indenture, and any terms that may be required by us or advisable under applicable laws or regulations.

All Securities of any one series shall be substantially identical except as may otherwise be provided in or pursuant to any such Board Resolution or in any indentures supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution of the Company, a copy of an appropriate record of such action shall be certified by the secretary or an assistant secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officer's Certificate of the Company setting forth the terms of the series.

Securities of any particular series may be issued at various times, with different dates on which the principal or any installment of principal is payable, with different rates of interest, if any, or different methods by which rates of interest may be determined, with different dates on which such interest may be payable and with different redemption dates.

Section 2.02 Form of Securities and Trustee's Certificate.

The Securities of any series and the Trustee's certificate of authentication to be borne by such Securities shall be substantially of the tenor and purport as set forth in one or more indentures supplemental hereto or as provided in a Board Resolution, and set forth in an Officer's Certificate, and they may have such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange on which Securities of that series may be listed, or to conform to usage.

Section 2.03 Denominations: Provisions for Payment.

The Securities shall be issuable as registered Securities and in the denominations of one thousand U.S. dollars ($1,000) or any integral multiple thereof, subject to Section 2.01(a)(13). The Securities of a particular series shall bear interest payable on the dates and at the rate specified with respect to that series. Subject to Section 2.01(a)(23), the principal of and the interest on the Securities of any series, as well as any premium thereon in case of redemption or repurchase thereof prior to maturity, and any cash amount due upon conversion or exchange thereof, shall be payable in the coin or currency of the United States of America that at the time is legal tender for public and private debt, at the office or agency of the Company maintained for that purpose. Each Security shall be dated the date of its authentication. Except as otherwise stated in an Officer's Certificate or supplemental indenture with respect to the Securities of a series, interest on the Securities shall be computed on the basis of a 360-day year composed of twelve 30-day months.

The interest installment on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date for Securities of that series shall be paid to the Person in whose name said Security (or one or more Predecessor Securities) is registered at the close of business on the regular record date for such interest installment. In the event that any Security of a particular series or portion thereof is called for redemption and the redemption date is subsequent to a regular record date with respect to any Interest Payment Date and prior to such Interest Payment Date, interest on such Security will be paid upon presentation and surrender of such Security as provided in Section 3.03.

Any interest on any Security that is payable, but is not punctually paid or duly provided for, on any Interest Payment Date for Securities of the same series (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered holder on the relevant regular record date by virtue of having been such holder; and such Defaulted Interest shall be paid by the Company, at its election, as provided in clause (1) or clause (2) below:

(1) The Company may make payment of any Defaulted Interest on Securities to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered in the Security Register at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a special record date for the payment of such Defaulted Interest which shall not be more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such special record date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be sent, to each Securityholder not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been sent as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered in the Security Register on such special record date.

(2) The Company may make payment of any Defaulted Interest on any Securities in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Unless otherwise set forth in a Board Resolution or one or more indentures supplemental hereto establishing the terms of any series of Securities pursuant to Section 2.01 hereof, the term "regular record date" as used in this Section with respect to a series of Securities and any Interest Payment Date for such series shall mean either the fifteenth day of the month immediately preceding the month in which an Interest Payment Date established for such series pursuant to Section 2.01 hereof shall occur, if such Interest Payment Date is the first day of a month, or the first day of the month in which an Interest Payment Date established for such series pursuant to Section 2.01 hereof shall occur, if such Interest Payment Date is the fifteenth day of a month, whether or not such date is a Business Day.

Subject to the foregoing provisions of this Section, each Security of a series delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Security of such series shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Security.

Section 2.04 Execution and Authentications.

The Securities shall be signed on behalf of the Company by one of its Officers. Signatures may be in the form of a manual, electronic or facsimile signature.

The Company may use the manual, electronic or facsimile signature of any Person who shall have been an Officer (at the time of execution), notwithstanding the fact that at the time the Securities shall be authenticated and delivered or disposed of such Person shall have ceased to be such an officer of the Company. The Securities may contain such notations, legends or endorsements required by law, stock exchange rule or usage. Each Security shall be dated the date of its authentication by the Trustee.

A Security shall not be valid until authenticated manually, electronically or by facsimile by an authorized signatory of the Trustee, or by an Authenticating Agent. Such signature shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the holder is entitled to the benefits of this Indenture. At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a written order of the Company for the authentication and delivery of such Securities, signed by an Officer, and the Trustee in accordance with such written order shall authenticate and deliver such Securities.

Upon the Company's delivery of any such authentication order to the Trustee at any time after the initial issuance of Securities under this Indenture, the Trustee shall be provided with, and (subject to Sections 315(a) through 315(d) of the Trust Indenture Act) shall be fully protected in relying upon, (1) an Opinion of Counsel or reliance letter and (2) an Officer's Certificate stating that all conditions precedent to the execution, authentication and delivery of such Securities are in conformity with the provisions of this Indenture.

The Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner that is not reasonably acceptable to the Trustee.

Section 2.05 Registration of Transfer and Exchange.

(a) Securities of any series may be exchanged upon presentation thereof at the office or agency of the Company designated for such purpose, for other Securities of such series of authorized denominations, and for a like aggregate principal amount, upon payment of a sum sufficient to cover any tax or other governmental charge in relation thereto, all as provided in this Section. In respect of any Securities so surrendered for exchange, the Company shall execute, the Trustee shall authenticate and such office or agency shall deliver in exchange therefor the Security or Securities of the same series that the Securityholder making the exchange shall be entitled to receive, bearing numbers not contemporaneously outstanding.

(b) The Company shall keep, or cause to be kept, at its office or agency designated for such purpose a register or registers (herein referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall register the Securities and the transfers of Securities as in this Article provided and which at all reasonable times shall be open for inspection by the Trustee. The registrar for the purpose of registering Securities and transfer of Securities as herein provided shall be appointed as authorized by Board Resolution or Supplemental Indenture (the "Security Registrar").

Upon surrender for transfer of any Security at the office or agency of the Company designated for such purpose, the Company shall execute, the Trustee shall authenticate and such office or agency shall deliver in the name of the transferee or transferees a new Security or Securities of the same series as the Security presented for a like aggregate principal amount.

The Company initially appoints the Trustee as Security Registrar for each series of Securities.

All Securities presented or surrendered for exchange or registration of transfer, as provided in this Section, shall be accompanied (if so required by the Company or the Security Registrar) by a written instrument or instruments of transfer, in form satisfactory to the Company or the Security Registrar, duly executed by the registered holder or by such holder's duly authorized attorney in writing.

(c) Except as provided pursuant to Section 2.01 pursuant to a Board Resolution, and set forth in an Officer's Certificate, or established in one or more indentures supplemental to this Indenture, no service charge shall be made for any exchange or registration of transfer of Securities, or issue of new Securities in case of partial redemption of any series or repurchase, conversion or exchange of less than the entire principal amount of a Security, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge in relation thereto, other than exchanges pursuant to Section 2.06, Section 3.03(b) and Section 9.04 not involving any transfer.

(d) The Company and the Security Registrar shall not be required (i) to issue, exchange or register the transfer of any Securities during a period beginning at the opening of business 15 days before the day of the sending of a notice of redemption of less than all the Outstanding Securities of the same series and ending at the close of business on the day of such sending, nor (ii) to register the transfer of or exchange any Securities of any series or portions thereof called for redemption or surrendered for repurchase, but not validly withdrawn, other than the unredeemed portion of any such Securities being redeemed in part or not surrendered for repurchase, as the case may be. The provisions of this Section 2.05 are, with respect to any Global Security, subject to Section 2.11 hereof.

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Security (including any transfers between or among Depositary participants or beneficial owners of interests in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 2.06 Temporary Securities.

Pending the preparation of definitive Securities of any series, the Company may execute, and the Trustee shall authenticate and deliver, temporary Securities (printed, lithographed or typewritten) of any authorized denomination. Such temporary Securities shall be substantially in the form of the definitive Securities in lieu of which they are issued, but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Company. Every temporary Security of any series shall be executed by the Company and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Securities of such series. Without unnecessary delay the Company will execute and will furnish definitive Securities of such series and thereupon any or all temporary Securities of such series may be surrendered in exchange therefor (without charge to the Securityholders), at the office or agency of the Company designated for the purpose, and the Trustee shall authenticate and such office or agency shall deliver in exchange for such temporary Securities an equal aggregate principal amount of definitive Securities of such series, unless the Company advises the Trustee to the effect that definitive Securities need not be executed and furnished until further notice from the Company. Until so exchanged, the temporary Securities of such series shall be entitled to the same benefits under this Indenture as definitive Securities of such series authenticated and delivered hereunder.

Section 2.07 Mutilated, Destroyed, Lost or Stolen Securities.

In case any temporary or definitive Security shall become mutilated or be destroyed, lost or stolen, the Company (subject to the next succeeding sentence) shall execute, and upon the Company's request the Trustee (subject as aforesaid) shall authenticate and deliver, a new Security of the same series, bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Security, or in lieu of and in substitution for the Security so destroyed, lost or stolen. In every case the applicant for a substituted Security shall furnish to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company and the Trustee evidence to their satisfaction of the destruction, loss or theft of the applicant's Security and of the ownership thereof. The Trustee may authenticate any such substituted Security and deliver the same upon the written request or authorization of any officer of the Company. Upon the issuance of any substituted Security, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

In case any Security that has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Company may, instead of issuing a substitute Security, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Security) if the applicant for such payment shall furnish to the Company and the Trustee such security or indemnity as they may require to save them harmless, and, in case of destruction, loss or theft, evidence to the satisfaction of the Company and the Trustee of the destruction, loss or theft of such Security and of the ownership thereof.

Every replacement Security issued pursuant to the provisions of this Section shall constitute an additional contractual obligation of the Company whether or not the mutilated, destroyed, lost or stolen Security shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of the same series duly issued hereunder. All Securities shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities, and shall preclude (to the extent lawful) any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

Section 2.08 Cancellation.

All Securities surrendered for the purpose of payment, redemption, repurchase, exchange, registration of transfer or conversion shall, if surrendered to the Company or any paying agent (or any other applicable agent), be delivered to the Trustee for cancellation, or, if surrendered to the Trustee, shall be cancelled by it, and no Securities shall be issued in lieu thereof except as expressly required or permitted by any of the provisions of this Indenture. On request of the Company at the time of such surrender, the Trustee shall deliver to the Company canceled Securities held by the Trustee. In the absence of such request the Trustee may dispose of canceled Securities in accordance with its standard procedures and deliver a certificate of disposition to the Company. If the Company shall otherwise acquire any of the Securities, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee for cancellation.

Section 2.09 Benefits of Indenture.

Nothing in this Indenture or in the Securities, express or implied, shall give or be construed to give to any Person, other than the parties hereto and the holders of the Securities any legal or equitable right, remedy or claim under or in respect of this Indenture, or under any covenant, condition or provision herein contained; all such covenants, conditions and provisions being for the sole benefit of the parties hereto and of the holders of the Securities.

Section 2.10 Authenticating Agent.

So long as any of the Securities of any series remain Outstanding there may be an Authenticating Agent for any or all such series of Securities which the Trustee shall have the right to appoint. Said Authenticating Agent shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon exchange, transfer or partial redemption, repurchase or conversion thereof, and Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. All references in this Indenture to the authentication of Securities by the Trustee shall be deemed to include authentication by an Authenticating Agent for such series. Each Authenticating Agent shall be acceptable to the Company and shall be a corporation that has a combined capital and surplus, as most recently reported or determined by it, sufficient under the laws of any jurisdiction under which it is organized or in which it is doing business to conduct a trust business, and that is otherwise authorized under such laws to conduct such business and is subject to supervision or examination by federal or state authorities. If at any time any Authenticating Agent shall cease to be eligible in accordance with these provisions, it shall resign immediately.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time (and upon request by the Company shall) terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and to the Company. Upon resignation, termination or cessation of eligibility of any Authenticating Agent, the Trustee may appoint an eligible successor Authenticating Agent acceptable to the Company. Any successor Authenticating Agent, upon acceptance of its appointment hereunder, shall become vested with all the rights, powers and duties of its predecessor hereunder as if originally named as an Authenticating Agent pursuant hereto.

Section 2.11 Global Securities.

(a) If the Company shall establish pursuant to Section 2.01 that the Securities of a particular series are to be issued as a Global Security, then the Company shall execute and the Trustee shall, in accordance with Section 2.04, authenticate and deliver, a Global Security that (i) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of, all of the Outstanding Securities of such series, (ii) shall be registered in thename of the Depositary or its nominee, (iii) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary's instruction (or if the Depositary names the Trustee as its custodian, retained by the Trustee), and (iv) shall bear a legend substantially to the following effect: "Except as otherwise provided in Section 2.11 of the Indenture, this Security may be transferred, in whole but not in part, only to another nominee of the Depositary or to a successor Depositary or to a nominee of such successor Depositary."

(b) Notwithstanding the provisions of Section 2.05, the Global Security of a series may be transferred, in whole but not in part and in the manner provided in Section 2.05, only to another nominee of the Depositary for such series, or to a successor Depositary for such series selected or approved by the Company or to a nominee of such successor Depositary.

(c) If at any time the Depositary for a series of the Securities notifies the Company that it is unwilling or unable to continue as Depositary for such series or if at any time the Depositary for such series shall no longer be registered or in good standing under the Exchange Act, or other applicable statute or regulation, and a successor Depositary for such series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such condition, as the case may be, or if an Event of Default has occurred and is continuing and the Company has received a request from the Depositary or from the Trustee, this Section 2.11 shall no longer be applicable to the Securities of such series and the Company will execute, and subject to Section 2.04, the Trustee will authenticate and deliver the Securities of such series in definitive registered form without coupons, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the Global Security of such series in exchange for such Global Security. In addition, the Company may at any time determine that the Securities of any series shall no longer be represented by a Global Security and that the provisions of this Section 2.11 shall no longer apply to the Securities of such series. In such event the Company will execute and, subject to Section 2.04, the Trustee, upon receipt of an Officer's Certificate evidencing such determination by the Company, will authenticate and deliver the Securities of such series in definitive registered form without coupons, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the Global Security of such series in exchange for such Global Security. Upon the exchange of the Global Security for such Securities in definitive registered form without coupons, in authorized denominations, the Global Security shall be canceled by the Trustee. Such Securities in definitive registered form issued in exchange for the Global Security pursuant to this Section 2.11(c) shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Securities to the Depositary for delivery to the Persons in whose names such Securities are so registered.

Section 2.12 CUSIP Numbers.

The Company in issuing the Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Securityholders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other elements of identification printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the "CUSIP" numbers.

ARTICLE 3

REDEMPTION OF SECURITIES AND SINKING FUND PROVISIONS

Section 3.01 Redemption.

The Company may redeem the Securities of any series issued hereunder on and after the dates and in accordance with the terms established for such series pursuant to Section 2.01 hereof.

Section 3.02 Notice of Redemption.

(a) In case the Company shall desire to exercise such right to redeem all or, as the case may be, a portion of the Securities of any series in accordance with any right the Company reserved for itself to do so pursuant to Section 2.01 hereof, the Company shall, or shall cause the Trustee to, give notice of such redemption to holders of the Securities of such series to be redeemed by mailing (or with regard to any Global Security held in book entry form, by electronic mail in accordance with the applicable procedures of the Depositary), a notice of such redemption not less than 10 days and not more than 90 days before the date fixed for redemption of that series to such Securityholders, unless a shorter period is specified in the Securities to be redeemed. Any notice that is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the registered holder receives the notice. In any case, failure duly to give such notice to the holder of any Security of any series designated for redemption in whole or in part, or any defect in the notice, shall not affect the validity of the proceedings for the redemption of any other Securities of such series or any other series. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officer's Certificate evidencing compliance with any such restriction.

Each such notice of redemption shall identify the Securities to be redeemed (including CUSIP numbers, if any), specify the date fixed for redemption and the redemption price at which Securities of that series are to be redeemed, and shall state that payment of the redemption price of such Securities to be redeemed will be made at the office or agency of the Company, upon presentation and surrender of such Securities, that interest accrued to the date fixed for redemption will be paid as specified in said notice, that from and after said date interest will cease to accrue and that the redemption is from a sinking fund, if such is the case. If less than all the Securities of a series are to be redeemed, the notice to the holders of Securities of that series to be redeemed in part shall specify the particular Securities to be so redeemed.

Unless otherwise provided in a Board Resolution, Officer's Certificate or supplemental indenture, notice of any redemption of Notes may, at the Company's discretion, be subject to one or more conditions precedent. If such redemption is subject to satisfaction of one or more conditions precedent, the Company's notice of redemption shall describe each such condition and, if applicable, shall state that, in the Company's discretion, the date fixed for redemption may be delayed until such time as any or all of such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Company in its sole discretion) by the Redemption Date as stated in such notice, or by the date fixed for redemption as so delayed (even if such conditions are not satisfied more than 90 days after the mailing of such notice of redemption). Any request that the Trustee mail the Company's notice of redemption may be similarly conditioned. The Company may provide in its redemption notice that payment of the redemption price and performance of the Company's obligations with respect to such redemption may be performed by another Person.

In case any Security is to be redeemed in part only, the notice that relates to such Security shall state the portion of the principal amount thereof to be redeemed, and shall state that on and after the redemption date, upon surrender of such Security, a new Security or Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

(b) If less than all the Securities of a series are to be redeemed, the Company shall give the Trustee at least 15 days' notice (unless a shorter notice shall be satisfactory to the Trustee) in advance of the date fixed for redemption as to the aggregate principal amount of Securities of the series to be redeemed, and thereupon the Securities to be redeemed shall be selected, by lot, on a pro rata basis, or in such other manner as the Company shall deem appropriate and fair in its discretion and that may provide for the selection of a portion or portions (equal to one thousand U.S. dollars ($1,000) or any integral multiple thereof) of the principal amount of such Securities of a denomination larger than $1,000, the Securities to be redeemed and shall thereafter promptly notify the Company in writing of the numbers of the Securities to be redeemed, in whole or in part. The Company may, if and whenever it shall so elect, by delivery of instructions signed on its behalf by an Officer, instruct the Trustee or any paying agent to call all or any part of the Securities of a particular series for redemption and to give notice of redemption in the manner set forth in this Section, such notice to be in the name of the Company or its own name as the Trustee or such paying agent may deem advisable. In any case in which notice of redemption is to be given by the Trustee or any such paying agent, the Company shall deliver or cause to be delivered to, or permit to remain with, the Trustee or such paying agent, as the case may be, such Security Register, transfer books or other records, or suitable copies or extracts therefrom, sufficient to enable the Trustee or such paying agent to give any notice by mail that may be required under the provisions of this Section.

Section 3.03 Payment Upon Redemption.

(a) If the giving of notice of redemption shall have been completed as above provided, the Securities or portions of Securities of the series to be redeemed specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to, but excluding, the date fixed for redemption and interest on such Securities or portions of Securities shall cease to accrue on and after the date fixed for redemption, unless the Company shall default in the payment of such redemption price and accrued interest with respect to any such Security or portion thereof. On presentation and surrender of such Securities on or after the date fixed for redemption at the place of payment specified in the notice, said Securities shall be paid and redeemed at the applicable redemption price for such series, together with interest accrued thereon to, but excluding, the date fixed for redemption (but if the date fixed for redemption is an Interest Payment Date, the interest installment payable on such date shall be payable to the registered holder at the close of business on the applicable record date pursuant to Section 2.03).

(b) Upon presentation of any Security of such series that is to be redeemed in part only, the Company shall execute and the Trustee shall authenticate and the office or agency where the Security is presented shall deliver to the Securityholder thereof, at the expense of the Company, a new Security of the same series of authorized denominations in principal amount equal to the unredeemed portion of the Security so presented.

Section 3.04 Sinking Fund.

The provisions of Sections 3.04, 3.05 and 3.06 shall be applicable to any sinking fund for the retirement of Securities of a series, except as otherwise specified as contemplated by Section 2.01 for Securities of such series.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an "optional sinking fund payment". If provided for by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.05. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series.

Section 3.05 Satisfaction of Sinking Fund Payments with Securities.

The Company (i) may deliver Outstanding Securities of a series and (ii) may apply as a credit Securities of a series that have been redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such Securities as provided for by the terms of such series, provided that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustee at the redemption price specified in such Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 3.06 Redemption of Securities for Sinking Fund.

Not less than 45 days prior to each sinking fund payment date for any series of Securities (unless a shorter period shall be satisfactory to the Trustee), the Company will deliver to the Trustee an Officer's Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of the series, the portion thereof, if any, that is to be satisfied by delivering and crediting Securities of that series pursuant to Section 3.05 and the basis for such credit and will, together with such Officer's Certificate, deliver to the Trustee any Securities to be so delivered. Not less than 10 days before each such sinking fund payment date the Securities to be redeemed upon such sinking fund payment date shall be selected in the manner specified in Section 3.02 and the Company shall cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.02. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Section 3.03.

ARTICLE 4

COVENANTS

Section 4.01 Payment of Principal, Premium and Interest.

The Company will duly and punctually pay or cause to be paid the principal of (and premium, if any) and interest on the Securities of that series at the time and place and in the manner provided herein and established with respect to such Securities. Payments of principal on the Securities may be made at the time provided herein and established with respect to such Securities by U.S. dollar check drawn on and mailed to the address of the Securityholder entitled thereto as such address shall appear in the Security Register, or U.S. dollar wire transfer to, a U.S. dollar account if such Securityholder shall have furnished wire instructions to the Trustee no later than 15 days prior to the relevant payment date. Payments of interest on the Securities may be made at the time provided herein and established with respect to such Securities by U.S. dollar check mailed to the address of the Securityholder entitled thereto as such address shall appear in the Security Register, or U.S. dollar wire transfer to, a U.S. dollar account if such Securityholder shall have furnished wire instructions in writing to the Security Registrar and the Trustee no later than 15 days prior to the relevant payment date.

Section 4.02 Maintenance of Office or Agency.

So long as any series of the Securities remain Outstanding, the Company agrees to maintain an office or agency with respect to each such series and at such other location or locations as may be designated as provided in this Section 4.02, where (i) Securities of that series may be presented for payment, (ii) Securities of that series may be presented as herein above authorized for registration of transfer and exchange, and (iii) notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be given or served, such designation to continue with respect to such office or agency until the Company shall, by written notice signed by any officer authorized to sign an Officer's Certificate and delivered to the Trustee, designate some other office or agency for such purposes or any of them. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, notices and demands. The Company initially appoints the Corporate Trust Office of the Trustee as its paying agent with respect to the Securities.

Section 4.03 Paying Agents.

(a) If the Company shall appoint one or more paying agents for all or any series of the Securities, other than the Trustee, the Company will cause each such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section:

(1) that it will hold all sums held by it as such agent for the payment of the principal of (and premium, if any) or interest on the Securities of that series (whether such sums have been paid to it by the Company or by any other obligor of such Securities) in trust for the benefit of the Persons entitled thereto;

(2) that it will give the Trustee notice of any failure by the Company (or by any other obligor of such Securities) to make any payment of the principal of (and premium, if any) or interest on the Securities of that series when the same shall be due and payable;

(3) that it will, at any time during the continuance of any failure referred to in the preceding paragraph (a)(2) above, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such paying agent; and

(4) that it will perform all other duties of paying agent as set forth in this Indenture.

(b) If the Company shall act as its own paying agent with respect to any series of the Securities, it will on or before each due date of the principal of (and premium, if any) or interest on Securities of that series, set aside, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay such principal (and premium, if any) or interest so becoming due on Securities of that series until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of such action, or any failure (by it or any other obligor on such Securities) to take such action. Whenever the Company shall have one or more paying agents for any series of Securities, it will, prior to each due date of the principal of (and premium, if any) or interest on any Securities of that series, deposit with the paying agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such paying agent is the Trustee) the Company will promptly notify the Trustee of this action or failure so to act.

(c) Notwithstanding anything in this Section to the contrary, (i) the agreement to hold sums in trust as provided in this Section is subject to the provisions of Section 11.05, and (ii) the Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or direct any paying agent to pay, to the Trustee all sums held in trust by the Company or such paying agent, such sums to be held by the Trustee upon the same terms and conditions as those upon which such sums were held by the Company or such paying agent; and, upon such payment by the Company or any paying agent to the Trustee, the Company or such paying agent shall be released from all further liability with respect to such money.

Section 4.04 Appointment to Fill Vacancy in Office of Trustee.

The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.10, a Trustee, so that there shall at all times be a Trustee hereunder.

ARTICLE 5

SECURITYHOLDERS' LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE

Section 5.01 Company to Furnish Trustee Names and Addresses of Securityholders.

The Company will furnish or cause to be furnished to the Trustee (a) within 15 days after each regular record date (as defined in Section 2.03) a list, in such form as the Trustee may reasonably require, of the names and addresses of the holders of each series of Securities as of such regular record date, provided that the Company shall not be obligated to furnish or cause to furnish such list at any time that the list shall not differ in any respect from the most recent list furnished to the Trustee by the Company and (b) at such other times as the Trustee may request in writing within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished; provided, however, that, in either case, no such list need be furnished for any series for which the Trustee shall be the Security Registrar.

Section 5.02 Preservation Of Information; Communications With Securityholders.

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of Securities contained in the most recent list furnished to it as provided in Section 5.01 and as to the names and addresses of holders of Securities received by the Trustee in its capacity as Security Registrar (if acting in such capacity).

(b) The Trustee may destroy any list furnished to it as provided in Section 5.01 upon receipt of a new list so furnished.

(c) Securityholders may communicate as provided in Section 312(b) of the Trust Indenture Act with other Securityholders with respect to their rights under this Indenture or under the Securities, and, in connection with any such communications, the Trustee shall satisfy its obligations under Section 312(b) of the Trust Indenture Act in accordance with the provisions of Section 312(b) of the Trust Indenture Act.

Section 5.03 Reports by the Company.

(a) The Company will at all times comply with Section 314(a) of the Trust Indenture Act. The Company covenants and agrees to provide (which delivery may be via electronic mail) to the Trustee within 30 days, after the Company files the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) that the Company is required to file with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act; provided, however, the Company shall not be required to deliver to the Trustee any correspondence filed with the Commission or any materials for which the Company has sought and received confidential treatment by the Commission; and provided further, that so long as such filings by the Company are available on the Commission's Electronic Data Gathering, Analysis and Retrieval System (EDGAR), or any successor system, such filings shall be deemed to have been filed with the Trustee for purposes hereof without any further action required by the Company. For the avoidance of doubt, a failure by the Company to file annual reports, information and other reports with the Commission within the time period prescribed thereof by the Commission shall not be deemed a breach of this Section 5.03.

(b) Delivery of reports, information and documents to the Trustee under Section 5.03 is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein, or determinable from information contained therein including the Company's compliance with any of their covenants thereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate). The Trustee is under no duty to examine any such reports, information or documents delivered to the Trustee or filed with the Commission via EDGAR to ensure compliance with the provisions of this Indenture or to ascertain the correctness or otherwise of the information or the statements contained therein. The Trustee shall have no responsibility or duty whatsoever to ascertain or determine whether the above referenced filings with the Commission on EDGAR (or any successor system) has occurred.

Section 5.04 Reports by the Trustee.

(a) If required by Section 313(a) of the Trust Indenture Act, the Trustee, within sixty (60) days after each May 1, shall send to the Securityholders a brief report dated as of such May 1, which complies with Section 313(a) of the Trust Indenture Act.

(b) The Trustee shall comply with Section 313(b) and 313(c) of the Trust Indenture Act.

(c) A copy of each such report shall, at the time of such transmission to Securityholders, be filed by the Trustee with the Company, with each securities exchange upon which any Securities are listed (if so listed) and also with the Commission. The Company agrees to notify the Trustee when any Securities become listed on any securities exchange.

ARTICLE 6

REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT

Section 6.01 Events of Default.

(a) Whenever used herein with respect to Securities of a particular series, "Event of Default" means any one or more of the following events that has occurred and is continuing:

(1) the Company defaults in the payment of any installment of interest upon any of the Securities of that series, as and when the same shall become due and payable, and such default continues for a period of 90 days; provided, however, that a valid extension of an interest payment period by the Company in accordance with the terms of any indenture supplemental hereto shall not constitute a default in the payment of interest for this purpose;

(2) the Company defaults in the payment of the principal of (or premium, if any, on) any of the Securities of that series as and when the same shall become due and payable whether at maturity, upon redemption, by declaration or otherwise, or in any payment required by any sinking or analogous fund established with respect to that series; provided, however, that a valid extension of the maturity of such Securities in accordance with the terms of any indenture supplemental hereto shall not constitute a default in the payment of principal or premium, if any;

(3) the Company fails to observe or perform any other of its covenants or agreements with respect to that series contained in this Indenture or otherwise established with respect to that series of Securities pursuant to Section 2.01 hereof (other than a covenant or agreement that has been expressly included in this Indenture solely for the benefit of one or more series of Securities other than such series) for a period of 90 days after the date on which written notice of such failure, requiring the same to be remedied and stating that such notice is a "Notice of Default" hereunder, shall have been given to the Company by the Trustee, by registered or certified mail, or to the Company and the Trustee by the holders of at least 25% in principal amount of the Securities of that series at the time Outstanding;

(4) the Company pursuant to or within the meaning of any Bankruptcy Law (i) commences a voluntary case, (ii) consents to the entry of an order for relief against it in an involuntary case, (iii) consents to the appointment of a Custodian of it or for all or substantially all of its property or (iv) makes a general assignment for the benefit of its creditors; or

(5) a court of competent jurisdiction enters an order under any Bankruptcy Law that (i) is for relief against the Company in an involuntary case, (ii) appoints a Custodian of the Company for all or substantially all of its property or (iii) orders the liquidation of the Company, and the order or decree remains unstayed and in effect for 90 days.

(b) In each and every such case (other than an Event of Default specified in clause (4) or clause (5) above), unless the principal of all the Securities of that series shall have already become due and payable, either the Trustee or the holders of not less than 25% in aggregate principal amount of the Securities of that series then Outstanding hereunder, by notice in writing to the Company (and to the Trustee if given by such Securityholders), may declare the principal of (and premium, if any, on) and accrued and unpaid interest on all the Securities of that series to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable. If an Event of Default specified in clause (4) or clause (5) above occurs, the principal of and accrued and unpaid interest on all the Securities of that series shall automatically be immediately due and payable without any declaration or other act on the part of the Trustee or the holders of the Securities.

(c) At any time after the principal of (and premium, if any, on) and accrued and unpaid interest on the Securities of that series shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the holders of a majority in aggregate principal amount of the Securities of that series then Outstanding hereunder, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if: (i) the Company has paid or deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all the Securities of that series and the principal of (and premium, if any, on) any and all Securities of that series that shall have become due otherwise than by acceleration (with interest upon such principal and premium, if any, and, to the extent that such payment is enforceable under applicable law, upon overdue installments of interest, at the rate per annum expressed in the Securities of that series to the date of such payment or deposit) and the amount payable to the Trustee under Section 7.06, and (ii) any and all Events of Default under the Indenture with respect to such series, other than the nonpayment of principal on (and premium, if any, on) and accrued and unpaid interest on Securities of that series that shall not have become due by their terms, shall have been remedied or waived as provided in Section 6.06.

No such rescission and annulment shall extend to or shall affect any subsequent default or impair any right consequent thereon.

(d) In case the Trustee shall have proceeded to enforce any right with respect to Securities of that series under this Indenture and such proceedings shall have been discontinued or abandoned because of such rescission or annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case, subject to any determination in such proceedings, the Company and the Trustee shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Company and the Trustee shall continue as though no such proceedings had been taken.

Section 6.02 Collection of Indebtedness and Suits for Enforcement by Trustee.

(a) The Company covenants that (i) in case it shall default in the payment of any installment of interest on any of the Securities of a series, or in any payment required by any sinking or analogous fund established with respect to that series as and when the same shall have become due and payable, and such default shall have continued for a period of 90 days, or (ii) in case it shall default in the payment of the principal of (or premium, if any, on) any of the Securities of a series when the same shall have become due and payable, whether upon maturity of the Securities of a series or upon redemption or upon declaration or otherwise then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the Securities of that series, the whole amount that then shall have been become due and payable on all such Securities for principal (and premium, if any) or interest, or both, as the case may be, with interest upon the overdue principal (and premium, if any) and (to the extent that payment of such interest is enforceable under applicable law) upon overdue installments of interest at the rate per annum expressed in the Securities of that series; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, and the amount payable to the Trustee under Section 7.06.

(b) If the Company shall fail to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon the Securities of that series and collect the moneys adjudged or decreed to be payable in the manner provided by law or equity out of the property of the Company or other obligor upon the Securities of that series, wherever situated.

(c) In case of any receivership, insolvency, liquidation, bankruptcy, reorganization, readjustment, arrangement, composition or judicial proceedings affecting the Company, or its creditors or property, the Trustee shall have power to intervene in such proceedings and take any action therein that may be permitted by the court and shall (except as may be otherwise provided by law) be entitled to file such proofs of claim and other papers and documents as may be necessary or advisable in order to have the claims of the Trustee and of the holders of Securities of such series allowed for the entire amount due and payable by the Company under the Indenture at the date of institution of such proceedings and for any additional amount that may become due and payable by the Company after such date, and to collect and receive any moneys or other property payable or deliverable on any such claim, and to distribute the same after the deduction of the amount payable to the Trustee under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of Securities of such series to make such payments to the Trustee, and, in the event that the Trustee shall consent to the making of such payments directly to such Securityholders, to pay to the Trustee any amount due it under Section 7.06.

(d) All rights of action and of asserting claims under this Indenture, or under any of the terms established with respect to Securities of that series, may be enforced by the Trustee without the possession of any of such Securities, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for payment to the Trustee of any amounts due under Section 7.06, be for the ratable benefit of the holders of the Securities of such series.

In case of an Event of Default hereunder, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in the Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Nothing contained herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of that series or the rights of any Securityholder thereof or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding.

Section 6.03 Application of Moneys Collected.

Any moneys collected by the Trustee pursuant to this Article with respect to a particular series of Securities shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal (or premium, if any) or interest, upon presentation of the Securities of that series, and notation thereon of the payment, if only partially paid, and upon surrender thereof if fully paid:

FIRST: To the payment of costs and expenses of collection and of all amounts payable to the Trustee under Section 7.06;

SECOND: To the payment of the amounts then due and unpaid upon Securities of such series for principal (and premium, if any) and interest, in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal (and premium, if any) and interest, respectively; and

THIRD: To the payment of the remainder, if any, to the Company or any other Person lawfully entitled thereto.

Section 6.04 Limitation on Suits.

No holder of any Security of any series shall have any right by virtue or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless (i) such Securityholder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof with respect to the Securities of such series specifying such Event of Default, as hereinbefore provided; (ii) the holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder; (iii) such Securityholder or Securityholders shall have offered to the Trustee indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request; (iv) the Trustee for 90 days after its receipt of such notice, request and offer of indemnity, shall have failed to institute any such action, suit or proceeding and (v) during such 90 day period, the holders of a majority in principal amount of the Securities of that series do not give the Trustee a direction inconsistent with the request.

Notwithstanding anything contained herein to the contrary or any other provisions of this Indenture, the right of any holder of any Security to receive payment of the principal of (and premium, if any) and interest on such Security, as therein provided, on or after the respective due dates expressed in such Security (or in the case of redemption, on the redemption date), or to institute suit for the enforcement of any such payment on or after such respective dates or redemption date, shall not be impaired or affected without the consent of such holder and by accepting a Security hereunder it is expressly understood, intended and covenanted by the taker and holder of every Security of such series with every other such taker and holder and the Trustee, that no one or more holders of Securities of such series shall have any right in any manner whatsoever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of the holders of any other of such Securities, or to obtain or seek to obtain priority over or preference to any other such holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all holders of Securities of such series. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Section 6.05 Rights and Remedies Cumulative; Delay or Omission Not Waiver.

(a) Except as otherwise provided in Section 2.07, all powers and remedies given by this Article to the Trustee or to the Securityholders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any other powers and remedies available to the Trustee or the holders of the Securities, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture or otherwise established with respect to such Securities.

(b) No delay or omission of the Trustee or of any holder of any of the Securities to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein; and, subject to the provisions of Section 6.04, every power and remedy given by this Article or by law to the Trustee or the Securityholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Securityholders.

Section 6.06 Control by Securityholders.

The holders of a majority in aggregate principal amount of the Securities of any series at the time Outstanding, determined in accordance with Section 8.04, shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to such series; provided, however, that such direction shall not be in conflict with any rule of law or with this Indenture or subject the Trustee in its sole discretion to personal liability. Subject to the provisions of Section 7.01, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Responsible Officer or officers of the Trustee, determine that the proceeding so directed, subject to the Trustee's duties under the Trust Indenture Act, would involve the Trustee in personal liability or might be unduly prejudicial to the Securityholders not involved in the proceeding. The holders of a majority in aggregate principal amount of the Securities of any series at the time Outstanding affected thereby, determined in accordance with Section 8.04, may on behalf of the holders of all of the Securities of such series waive any past default in the performance of any of the covenants contained herein or established pursuant to Section 2.01 with respect to such series and its consequences, except a default in the payment of the principal of, or premium, if any, or interest on, any of the Securities of that series as and when the same shall become due by the terms of such Securities otherwise than by acceleration (unless such default has been cured and a sum sufficient to pay all matured installments of interest and principal and any premium has been deposited with the Trustee (in accordance with Section 6.01(c)). Upon any such waiver, the default covered thereby shall be deemed to be cured for all purposes of this Indenture and the Company, the Trustee and the holders of the Securities of such series shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 6.07 Undertaking to Pay Costs.

All parties to this Indenture agree, and each holder of any Securities by such holder's acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder, or group of Securityholders, holding more than 10% in aggregate principal amount of the Outstanding Securities of any series, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Security of such series, on or after the respective due dates expressed in such Security or established pursuant to this Indenture.

ARTICLE 7

CONCERNING THE TRUSTEE

Section 7.01 Certain Duties and Responsibilities of Trustee.

(a) The Trustee, prior to the occurrence of an Event of Default with respect to the Securities of a series and after the curing of all Events of Default with respect to the Securities of that series that may have occurred, shall undertake to perform with respect to the Securities of such series such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants shall be read into this Indenture against the Trustee. In case an Event of Default with respect to the Securities of a series has occurred (that has not been cured or waived), the Trustee shall exercise with respect to Securities of that series such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) prior to the occurrence of an Event of Default with respect to the Securities of a series and after the curing or waiving of all such Events of Default with respect to that series that may have occurred:

(A) the duties and obligations of the Trustee shall with respect to the Securities of such series be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable with respect to the Securities of such series except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(B) in the absence of bad faith on the part of the Trustee, the Trustee may with respect to the Securities of such series conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(ii) the Trustee shall not be liable to any Securityholder or to any other Person for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Securities of any series at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture with respect to the Securities of that series;

(iv) none of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Indenture or adequate indemnity against such risk is not reasonably assured to it;

(v) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers or duties hereunder;

(vi) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee; and

(vii) No Trustee shall have any duty or responsibility for any act or omission of any other Trustee appointed with respect to a series of Securities hereunder.

Section 7.02 Certain Rights of Trustee.

Except as otherwise provided in Section 7.01:

(a) The Trustee may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by a Board Resolution or an instrument signed in the name of the Company by any authorized Officer of the Company (unless other evidence in respect thereof is specifically prescribed herein);

(c) The Trustee may consult with counsel and the opinion or written advice of such counsel or, if requested, any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted hereunder in good faith and in reliance thereon;

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee security or indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities that may be incurred therein or thereby; nothing contained herein shall, however, relieve the Trustee of the obligation, upon the occurrence of an Event of Default with respect to a series of the Securities (that has not been cured or waived), to exercise with respect to Securities of that series such of the rights and powers vested in it by this Indenture, and to use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his or her own affairs;

(e) The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, security, or other papers or documents or inquire as to the performance by the Company of one of its covenants under this Indenture, unless requested in writing so to do by the holders of not less than a majority in principal amount of the Outstanding Securities of the particular series affected thereby (determined as provided in Section 8.04); provided, however, that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require security or indemnity reasonably acceptable to the Trustee against such costs, expenses or liabilities as a condition to so proceeding. The reasonable expense of every such examination shall be paid by the Company or, if paid by the Trustee, shall be repaid by the Company upon demand;

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(h) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances;

(i) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action; and

(j) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods; provided, however, that such instructions or directions shall be signed by an authorized representative of the party providing such instructions or directions. If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk or interception and misuse by third parties. The Trustee may request that the Company deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to furnish the Trustee with Officer's Certificates, Company Orders and any other matters or directions pursuant to this Indenture;

(k) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder and under the Securities, and each agent, custodian or other person employed to act under this Indenture; and

(l) The Trustee shall not be deemed to have knowledge of any Default or Event of Default (other than an Event of Default constituting the failure to pay the interest on, or the principal of, the Securities if the Trustee also serves as the paying agent for such Securities) until the Trustee shall have received written notification in the manner set forth in this Indenture or a Responsible Officer of the Trustee shall have obtained actual knowledge.

Section 7.03 Trustee Not Responsible for Recitals or Issuance or Securities.

(a) The recitals contained herein and in the Securities shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee shall not be responsible for any statement in any registration statement, prospectus, or any other document in connection with the sale of Securities. The Trustee shall not be responsible for any rating on the Securities or any action or omission of any rating agency.

(b) The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities.

(c) The Trustee shall not be accountable for the use or application by the Company of any of the Securities or of the proceeds of such Securities, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Indenture or established pursuant to Section 2.01, or for the use or application of any moneys received by any paying agent other than the Trustee.

Section 7.04 May Hold Securities.

The Trustee or any paying agent or Security Registrar, in its individual or any other capacity, may become the owner or pledgee of Securities with the same rights it would have if it were not Trustee, paying agent or Security Registrar.

Section 7.05 Moneys Held in Trust.

Subject to the provisions of Section 11.05, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any moneys received by it hereunder except such as it may agree with the Company to pay thereon.

Section 7.06 Compensation and Reimbursement.

(a) The Company shall pay to the Trustee for each of its capacities hereunder from time to time compensation for its services as the Company and the Trustee shall from time to time agree upon in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred by it. Such expenses shall include the reasonable compensation and expenses of the Trustee's agents and counsel.

(b) The Company shall indemnify the Trustee in each of its capacities hereunder against any loss, liability or expense (including the cost of defending itself and including the reasonable compensation and expenses of the Trustee's agents and counsel) incurred by it except as set forth in Section 7.06(c) in the exercise or performance of its powers, rights or duties under this Indenture as Trustee or Agent. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have one separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. This indemnification shall apply to officers, directors, employees, shareholders and agents of the Trustee.

(c) The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Trustee or by any officer, director, employee, shareholder or agent of the Trustee through negligence, reckless misconduct or bad faith.

(d) To ensure the Company's payment obligations in this Section, the Trustee shall have a lien prior to the Securities on all funds or property held or collected by the Trustee, except that held in trust to pay principal of or interest on particular Securities. When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 6.01(4) or (5), the expenses (including the reasonable fees and expenses of its counsel) and the compensation for services in connection therewith are to constitute expenses of administration under any bankruptcy law. The provisions of this Section 7.06 shall survive the termination of this Indenture and the resignation or removal of the Trustee.

Section 7.07 Reliance on Officer's Certificate.

Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it reasonably necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to take any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence, reckless misconduct or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee and such certificate, in the absence of negligence, reckless misconduct or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted to be taken by it under the provisions of this Indenture upon the faith thereof.

Section 7.08 Disqualification; Conflicting Interests.

If the Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee and the Company shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

Section 7.09 Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee with respect to the Securities issued hereunder which shall at all times be a corporation organized and doing business under the laws of the United States of America or any state or territory thereof or of the District of Columbia, or a corporation or other Person permitted to act as trustee by the Commission, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least fifty million U.S. dollars ($50,000,000), and subject to supervision or examination by federal, state, territorial, or District of Columbia authority.

If such corporation or other Person publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation or other Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Company may not, nor may any Person directly or indirectly controlling, controlled by, or under common control with the Company, serve as Trustee. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 7.10.

Section 7.10 Resignation and Removal; Appointment of Successor.

(a) The Trustee or any successor hereafter appointed may at any time resign with respect to the Securities of one or more series by giving written notice thereof to the Company and the Securityholders of such series. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee with respect to Securities of such series by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 30 days after the sending of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee with respect to Securities of such series, or any Securityholder of that series who has been a bona fide holder of a Security or Securities for at least six months may on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any one of the following shall occur:

(i) the Trustee shall fail to comply with the provisions of Section 7.08 after written request therefor by the Company or by any Securityholder who has been a bona fide holder of a Security or Securities for at least six months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.09 and shall fail to resign after written request therefor by the Company or by any such Securityholder; or

(iii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or commence a voluntary bankruptcy proceeding, or a receiver of the Trustee or of its property shall be appointed or consented to, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Company may remove the Trustee with respect to all Securities and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or any Securityholder who has been a bona fide holder of a Security or Securities for at least six months may, on behalf of that holder and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The holders of a majority in aggregate principal amount of the Securities of any series at the time Outstanding may at any time remove the Trustee with respect to such series by so notifying the Trustee and the Company and may appoint a successor Trustee for such series with the consent of the Company.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee with respect to the Securities of a series pursuant to any of the provisions of this Section shall become effective upon acceptance of appointment by the successor trustee as provided in Section 7.11.

(e) Any successor trustee appointed pursuant to this Section may be appointed with respect to the Securities of one or more series or all of such series, and at any time there shall be only one Trustee with respect to the Securities of any particular series.

Section 7.11 Acceptance of Appointment By Successor.

(a) In case of the appointment hereunder of a successor trustee with respect to all Securities, every such successor trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor trustee, such retiring Trustee shall, upon payment of any amounts due to it pursuant to the provisions of Section 7.06, execute and deliver an instrument transferring to such successor trustee all the rights, powers, and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor trustee shall accept such appointment and which (i) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor trustee relates, (ii) shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (iii) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust, that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee and that no Trustee shall be responsible for any act or failure to act on the part of any other Trustee hereunder; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein, such retiring Trustee shall with respect to the Securities of that or those series to which the appointment of such successor trustee relates have no further responsibility for the exercise of rights and powers or for the performance of the duties and obligations vested in the Trustee under this Indenture, and each such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor trustee relates; but, on request of the Company or any successor trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor trustee, to the extent contemplated by such supplemental indenture, the property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor trustee relates.

(c) Upon request of any such successor trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor trustee all such rights, powers and trusts referred to in paragraph (a) or (b) of this Section, as the case may be.

(d) No successor trustee shall accept its appointment unless at the time of such acceptance such successor trustee shall be qualified and eligible under this Article.

(e) Upon acceptance of appointment by a successor trustee as provided in this Section, the Company shall send notice of the succession of such trustee hereunder to the Securityholders. If the Company fails to send such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be sent at the expense of the Company.

Section 7.12 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, including the administration of the trust created by this Indenture, shall be the successor of the Trustee hereunder, provided that such corporation shall be qualified under the provisions of Section 7.08 and eligible under the provisions of Section 7.09, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

Section 7.13 Preferential Collection of Claims Against the Company.

The Trustee shall comply with Section 311(a) of the Trust Indenture Act, excluding any creditor relationship described in Section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent included therein.

Section 7.14 Notice of Default.

If any Event of Default occurs and is continuing and if such Event of Default is known to a Responsible Officer of the Trustee, the Trustee shall send to each Securityholder in the manner and to the extent provided in Section 313(c) of the Trust Indenture Act notice of the Event of Default within the earlier of 90 days after it occurs and 30 days after it is known to a Responsible Officer of the Trustee or written notice of it is received by the Trustee, unless such Event of Default has been cured; *provided, however*, that, except in the case of a default in the payment of the principal of (or premium, if any) or interest on any Security, the Trustee shall be protected in withholding such notice if and so long as the Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interest of the Securityholders.

ARTICLE 8

CONCERNING THE SECURITYHOLDERS

Section 8.01 Evidence of Action by Securityholders.

Whenever in this Indenture it is provided that the holders of a majority or specified percentage in aggregate principal amount of the Securities of a particular series may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such majority or specified percentage of that series have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by such holders of Securities of that series in person or by agent or proxy appointed in writing.

If the Company shall solicit from the Securityholders of any series any request, demand, authorization, direction, notice, consent, waiver or other action, the Company may, at its option, as evidenced by an Officer's Certificate, fix in advance a record date for such series for the determination of Securityholders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other action, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other action may be given before or after the record date, but only the Securityholders of record at the close of business on the record date shall be deemed to be Securityholders for the purposes of determining whether Securityholders of the requisite proportion of Outstanding Securities of that series have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other action, and for that purpose the Outstanding Securities of that series shall be computed as of the record date; provided, however, that no such authorization, agreement or consent by such Securityholders on the record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

Section 8.02 Proof of Execution by Securityholders.

Subject to the provisions of Section 7.01, proof of the execution of any instrument by a Securityholder (such proof will not require notarization) or his or her agent or proxy and proof of the holding by any Person of any of the Securities shall be sufficient if made in the following manner:

(a) The fact and date of the execution by any such Person of any instrument may be proved in any reasonable manner acceptable to the Trustee.

(b) The ownership of Securities shall be proved by the Security Register of such Securities or by a certificate of the Security Registrar thereof.

The Trustee may require such additional proof of any matter referred to in this Section as it shall deem necessary.

Section 8.03 Who May be Deemed Owners.

Prior to the due presentment for registration of transfer of any Security, the Company, the Trustee, any paying agent and any Security Registrar may deem and treat the Person in whose name such Security shall be registered upon the books of the Security Registrar as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notice of ownership or writing thereon made by anyone other than the Security Registrar) for the purpose of receiving payment of or on account of the principal of, premium, if any, and (subject to Section 2.03) interest on such Security and for all other purposes; and neither the Company nor the Trustee nor any paying agent nor any Security Registrar shall be affected by any notice to the contrary.

Section 8.04 Certain Securities Owned by Company Disregarded.

In determining whether the holders of the requisite aggregate principal amount of Securities of a particular series have concurred in any direction, consent or waiver under this Indenture, the Securities of that series that are owned by the Company or any other obligor on the Securities of that series or by any Person directly or indirectly controlling or controlled by or under common control with the Company or any other obligor on the Securities of that series shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Securities of such series that the Trustee actually knows are so owned shall be so disregarded. The Securities so owned that have been pledged in good faith may be regarded as Outstanding for the purposes of this Section, if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not a Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any such other obligor. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 8.05 Actions Binding on Future Securityholders.

At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the majority or percentage in aggregate principal amount of the Securities of a particular series specified in this Indenture in connection with such action, any holder of a Security of that series that is shown by the evidence to be included in the Securities the holders of which have consented to such action may, by filing written notice with the Trustee, and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Security. Except as aforesaid any such action taken by the holder of any Security shall be conclusive and binding upon such holder and upon all future holders and owners of such Security, and of any Security issued in exchange therefor, on registration of transfer thereof or in place thereof, irrespective of whether or not any notation in regard thereto is made upon such Security. Any action taken by the holders of the majority or percentage in aggregate principal amount of the Securities of a particular series specified in this Indenture in connection with such action shall be conclusively binding upon the Company, the Trustee and the holders of all the Securities of that series.

ARTICLE 9

SUPPLEMENTAL INDENTURES

Section 9.01 Supplemental Indentures Without the Consent of Securityholders.

In addition to any supplemental indenture otherwise authorized by this Indenture, the Company and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as then in effect), without the consent of the Securityholders, for one or more of the following purposes:

(a) to cure any ambiguity, defect, or inconsistency herein or in the Securities of any series;

(b) to comply with Article Ten;

(c) to provide for uncertificated Securities in addition to or in place of certificated Securities;

(d) to add to the covenants, restrictions, conditions or provisions relating to the Company for the benefit of the holders of all or any series of Securities (and if such covenants, restrictions, conditions or provisions are to be for the benefit of less than all series of Securities, stating that such covenants, restrictions, conditions or provisions are expressly being included solely for the benefit of such series), to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default, or to surrender any right or power herein conferred upon the Company;

(e) to add to, delete from, or revise the conditions, limitations, and restrictions on the authorized amount, terms, or purposes of issue, authentication, and delivery of Securities, as herein set forth;

(f) to make any change that does not adversely affect the rights of any Securityholder in any material respect;

(g) to provide for the issuance of and establish the form and terms and conditions of the Securities of any series as provided in Section 2.01, to establish the form of any certifications required to be furnished pursuant to the terms of this Indenture or any series of Securities, or to add to the rights of the holders of any series of Securities;

(h) to evidence and provide for the acceptance of appointment hereunder by a successor trustee; or

(i) to comply with any requirements of the Commission or any successor in connection with the qualification of this Indenture under the Trust Indenture Act.

The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into any such supplemental indenture that affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed by the Company and the Trustee without the consent of the holders of any of the Securities at the time Outstanding, notwithstanding any of the provisions of Section 9.02.

Section 9.02 Supplemental Indentures With Consent of Securityholders.

With the consent (evidenced as provided in Section 8.01) of the holders of not less than a majority in aggregate principal amount of the Securities of each series affected by such supplemental indenture or indentures at the time Outstanding, the Company, when authorized by a Board Resolution, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as then in effect) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner not covered by Section 9.01 the rights of the holders of the Securities of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the holders of each Security then Outstanding and affected thereby, (a) extend the fixed maturity of any Securities of any series, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any premium payable upon the redemption thereof or (b) reduce the aforesaid percentage of Securities, the holders of which are required to consent to any such supplemental indenture.

It shall not be necessary for the consent of the Securityholders of any series affected thereby under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 9.03 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture pursuant to the provisions of this Article or of Section 10.01, this Indenture shall, with respect to such series, be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the holders of Securities of the series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.04 Securities Affected by Supplemental Indentures.

Securities of any series affected by a supplemental indenture, authenticated and delivered after the execution of such supplemental indenture pursuant to the provisions of this Article or of Section 10.01, may bear a notation in form approved by the Company, provided such form meets the requirements of any securities exchange upon which such series may be listed, as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities of that series so modified as to conform, in the opinion of the Board of Directors, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Company, authenticated by the Trustee and delivered in exchange for the Securities of that series then Outstanding.

Section 9.05 Execution of Supplemental Indentures.

Upon the request of the Company, accompanied by its Board Resolutions authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Securityholders required to consent thereto as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion but shall not be obligated to enter into such supplemental indenture. The Trustee, subject to the provisions of Section 7.01, shall receive an Officer's Certificate or an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article is authorized or permitted by the terms of this Article and that all conditions precedent to the execution of the supplemental indenture have been complied with; provided, however, that such Officer's Certificate or Opinion of Counsel need not be provided in connection with the execution of a supplemental indenture that establishes the terms of a series of Securities pursuant to Section 2.01 hereof.

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section, the Company shall (or shall direct the Trustee to) send a notice, setting forth in general terms the substance of such supplemental indenture, to the Securityholders of all series affected thereby .as their names and addresses appear upon the Security Register. Any failure of the Company to send, or cause the sending of, such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

ARTICLE 10

SUCCESSOR ENTITY

Section 10.01 Company May Consolidate, Etc.

Nothing contained in this Indenture shall prevent any consolidation or merger of the Company with or into any other Person (whether or not affiliated with the Company) or successive consolidations or mergers in which the Company or its successor or successors shall be a party or parties, or shall prevent any sale, conveyance, transfer or other disposition of the property of the Company or its successor or successors as an entirety, or substantially as an entirety, to any other Person (whether or not affiliated with the Company or its successor or successors); provided, however, the Company hereby covenants and agrees that, upon any such consolidation or merger (in each case, if the Company is not the survivor of such transaction) or any such sale, conveyance, transfer or other disposition (other than a sale, conveyance, transfer or other disposition to a Subsidiary of the Company), the due and punctual payment of the principal of (premium, if any) and interest on all of the Securities of all series in accordance with the terms of each series, according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this Indenture with respect to each series or established with respect to such series pursuant to Section 2.01 to be kept or performed by the Company shall be expressly assumed, by supplemental indenture (which shall conform to the provisions of the Trust Indenture Act, as then in effect) reasonably satisfactory in form to the Trustee executed and delivered to the Trustee by the entity formed by such consolidation, or into which the Company shall have been merged, or by the entity which shall have acquired such property.

Section 10.02 Successor Entity Substituted.

(a) In case of any such consolidation, merger, sale, conveyance, transfer or other disposition and upon the assumption by the successor entity by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the obligations set forth under Section 10.01 on all of the Securities of all series Outstanding, such successor entity shall succeed to and be substituted for the Company with the same effect as if it had been named as the Company herein, and thereupon the predecessor corporation shall be relieved of all obligations and covenants under this Indenture and the Securities.

(b) In case of any such consolidation, merger, sale, conveyance, transfer or other disposition, such changes in phraseology and form (but not in substance) may be made in the Securities thereafter to be issued as may be appropriate.

(c) Nothing contained in this Article shall require any action by the Company in the case of a consolidation or merger of any Person into the Company where the Company is the survivor of such transaction, or the acquisition by the Company, by purchase or otherwise, of all or any part of the property of any other Person (whether or not affiliated with the Company).

ARTICLE 11

SATISFACTION AND DISCHARGE

Section 11.01 Satisfaction and Discharge of Indenture.

If at any time: (a) the Company shall have delivered to the Trustee for cancellation all Securities of a series theretofore authenticated and not delivered to the Trustee for cancellation (other than any Securities that shall have been destroyed, lost or stolen and that shall have been replaced or paid as provided in Section 2.07 and Securities for whose payment money or Governmental Obligations have theretofore been deposited in trust or segregated and held in trust by the Company and thereupon repaid to the Company or discharged from such trust, as provided in Section 11.05); or (b) all such Securities of a particular series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and the Company shall deposit or cause to be deposited with the Trustee as trust funds the entire amount in moneys or Governmental Obligations or a combination thereof, sufficient in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay at maturity or upon redemption all Securities of that series not theretofore delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder with respect to such series by the Company then this Indenture shall thereupon cease to be of further effect with respect to such series except for the provisions of Sections 2.03, 2.05, 2.07, 4.01, 4.02, 4.03, 7.10, 11.05 and 13.04, that shall survive until the date of maturity or redemption date, as the case may be, and Sections 7.06 and 11.05, that shall survive to such date and thereafter, and the Trustee, on demand of the Company and at the cost and expense of the Company shall execute proper instruments acknowledging satisfaction of and discharging this Indenture with respect to such series.

Section 11.02 Discharge of Obligations.

If at any time all such Securities of a particular series not heretofore delivered to the Trustee for cancellation or that have not become due and payable as described in Section 11.01 shall have been paid by the Company by depositing irrevocably with the Trustee as trust funds moneys or an amount of Governmental Obligations sufficient to pay at maturity or upon redemption all such Securities of that series not theretofore delivered to the Trustee for cancellation, including principal (and premium, if any) and interest due or to become due to such date of maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder by the Company with respect to such series, then after the date such moneys or Governmental Obligations, as the case may be, are deposited with the Trustee the obligations of the Company under this Indenture with respect to such series shall cease to be of further effect except for the provisions of Sections 2.03, 2.05, 2.07, 4,01, 4.02, 4,03, 7.06, 7.10, 11.05 and 13.04 hereof that shall survive until such Securities shall mature and be paid.

Thereafter, Sections 7.06 and 11.05 shall survive.

Section 11.03 Deposited Moneys to be Held in Trust.

All moneys or Governmental Obligations deposited with the Trustee pursuant to Sections 11.01 or 11.02 shall be held in trust and shall be available for payment as due, either directly or through any paying agent (including the Company acting as its own paying agent), to the holders of the particular series of Securities for the payment or redemption of which such moneys or Governmental Obligations have been deposited with the Trustee.

Section 11.04 Payment of Moneys Held by Paying Agents.

In connection with the satisfaction and discharge of this Indenture all moneys or Governmental Obligations then held by any paying agent under the provisions of this Indenture shall, upon demand of the Company, be paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys or Governmental Obligations.

Section 11.05 Repayment to Company.

Any moneys or Governmental Obligations deposited with any paying agent or the Trustee, or then held by the Company, in trust for payment of principal of or premium, if any, or interest on the Securities of a particular series that are not applied but remain unclaimed by the holders of such Securities for at least two years after the date upon which the principal of (and premium, if any) or interest on such Securities shall have respectively become due and payable, or such other shorter period set forth in applicable escheat or abandoned or unclaimed property law, shall be repaid to the Company on May 31 of each year or upon the Company's request or (if then held by the Company) shall be discharged from such trust; and thereupon the paying agent and the Trustee shall be released from all further liability with respect to such moneys or Governmental Obligations, and the holder of any of the Securities entitled to receive such payment shall thereafter, as a general creditor, look only to the Company for the payment thereof.

ARTICLE 12

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

Section 12.01 No Recourse.

No recourse under or upon any obligation, covenant or agreement of this Indenture, or of any Security, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, stockholder, officer or director, past, present or future as such, of the Company or of any predecessor or successor corporation, either directly or through the Company or any such predecessor or successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Indenture and the obligations issued hereunder are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, stockholders, officers or directors as such, of the Company or of any predecessor or successor corporation, or any of them, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Securities or implied therefrom; and that any and all such personal liability of every name and nature, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such incorporator, stockholder, officer or director as such, because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Securities or implied therefrom, are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of such Securities.

ARTICLE 13

MISCELLANEOUS PROVISIONS

Section 13.01 Effect on Successors and Assigns.

All the covenants, stipulations, promises and agreements in this Indenture made by or on behalf of the Company shall bind its successors and assigns, whether so expressed or not.

Section 13.02 Actions by Successor.

Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or officer of the Company shall and may be done and performed with like force and effect by the corresponding board, committee or officer of any corporation that shall at the time be the lawful successor of the Company.

Section 13.03 Surrender of Company Powers.

The Company by instrument in writing executed by authority of its Board of Directors and delivered to the Trustee may surrender any of the powers reserved to the Company, and thereupon such power so surrendered shall terminate both as to the Company and as to any successor corporation.

Section 13.04 Notices.

Except as otherwise expressly provided herein, any notice, request or demand that by any provision of this Indenture is required or permitted to be given, made or served by the Trustee, the Security Registrar, any paying or other agent under this Indenture or by the holders of Securities or by any other Person pursuant to this Indenture to or on the Company may be given or served by being deposited in first class mail, postage prepaid, addressed (until another address is filed in writing by the Company with the Trustee), as follows: . Any notice, election, request or demand by the Company or any Securityholder or by any other Person pursuant to this Indenture to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made in writing at the Corporate Trust Office of the Trustee.

Section 13.05 Governing Law; Jury Trial Waiver.

This Indenture and each Security shall be governed by, and construed in accordance with, the internal laws of the State of New York, except to the extent that the Trust Indenture Act is applicable.

EACH PARTY HERETO, AND EACH HOLDER OF A SECURITY BY ACCEPTANCE THEREOF, HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INDENTURE.

Section 13.06 Treatment of Securities as Debt.

It is intended that the Securities will be treated as indebtedness and not as equity for federal income tax purposes. The provisions of this Indenture shall be interpreted to further this intention.

Section 13.07 Certificates and Opinions as to Conditions Precedent.

(a) Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officer's Certificate stating that all conditions precedent provided for in this Indenture (other than the certificate to be delivered pursuant to Section 13.12) relating to the proposed action have been complied with and, if requested, an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant in this Indenture (other than the certificate to be delivered pursuant to Section 13.12 of this Indenture or Section 314(a)(1) of the Trust Indenture Act) shall include (i) a statement that the Person making such certificate or opinion has read such covenant or condition; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (iii) a statement that, in the opinion of such Person, he has made such examination or investigation as is reasonably necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (iv) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 13.08 Payments on Business Days.

Except as provided pursuant to Section 2.01 pursuant to a Board Resolution, and set forth in an Officer's Certificate, or established in one or more indentures supplemental to this Indenture, in any case where the date of maturity of interest or principal of any Security or the date of redemption of any Security shall not be a Business Day, then payment of interest or principal (and premium, if any) may be made on the next succeeding Business Day with the same force and effect as if made on the nominal date of maturity or redemption, and no interest shall accrue for the period after such nominal date.

Section 13.09 Conflict with Trust Indenture Act.

If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by Section 318(c) of the Trust Indenture Act, such imposed duties shall control.

Section 13.10 Counterparts.

This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 13.11 Separability.

In case any one or more of the provisions contained in this Indenture or in the Securities of any series shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Indenture or of such Securities, but this Indenture and such Securities shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

Section 13.12 Compliance Certificates.

The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year during which any Securities of any series were outstanding, an officer's certificate stating whether or not the signers know of any Event of Default that occurred during such fiscal year. Such certificate shall contain a certification from the principal executive officer, principal financial officer or principal accounting officer of the Company that a review has been conducted of the activities of the Company and the Company's performance under this Indenture and that the Company has complied with all conditions and covenants under this Indenture. For purposes of this Section 13.12, such compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture. If the officer of the Company signing such certificate has knowledge of such an Event of Default, the certificate shall describe any such Event of Default and its status.

Section 13.13 U.S.A Patriot Act.

The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

Section 13.14 Force Majeure.

In no event shall the Trustee, the Security Registrar, any paying agent or any other agent under this Indenture be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions or utilities, communications or computer (software and hardware) services; it being understood that the Trustee, the Security Registrar, any paying agent or any other agent under this Indenture shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 13.15 Table of Contents; Headings.

The table of contents and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof, and will not modify or restrict any of the terms or provisions hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed all as of the day and year first above written.

EXPION ENERGY, INC.

By: _____

Name: _____

Title: _____

[TRUSTEE], as Trustee

By: _____

Name: _____

Title: _____

CROSS-REFERENCE TABLE

Section of Trust Indenture Act of 1939, as Amended	Section of Indenture
310(a)	7.09
310(b)	7.08
	7.10
310(c)	Inapplicable
311(a)	7.13
311(b)	7.13
311(c)	Inapplicable
312(a)	5.01
	5.02(a)
312(b)	5.02(c)
312(c)	5.02(c)
313(a)	5.04(a)
313(b)	5.04(b)
313(c)	5.04(a)
	5.04(b)
313(d)	5.04(c)
314(a)	5.03
	13.12
314(b)	Inapplicable
314(c)	13.07(a)
314(d)	Inapplicable
314(e)	13.07(b)
314(f)	Inapplicable
315(a)	7.01(a)
	7.01(b)
315(b)	7.14
315(c)	7.01
315(d)	7.01(b)
315(e)	6.07
316(a)	6.06
	8.04
316(b)	6.04
316(c)	8.01
317(a)	6.02
317(b)	4.03
318(a)	13.09

(1) This Cross-Reference Table does not constitute part of the Indenture and shall not have any bearing on the interpretation of any of its terms or provisions.

Exhibit 5.1

Stradling Yocca Carlson & Rauth LLP
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
949 725 4000
stradlinglaw.com

October 23, 2026

Expion Energy, Inc.
2025 SW Deerhound Avenue
Redmond, Oregon 97756

Re: *Registration Statement on Form S-3*

Ladies and Gentlemen:

You have requested our opinion with respect to certain matters in connection with the filing by Expion Energy, Inc., a Nevada corporation (the "***Company***"), of a Registration Statement on Form S-3 (as such may be amended or supplemented from time to time, the "***Registration Statement***") with the Securities and Exchange Commission ("***Commission***") on October 23, 2026, under the Securities Act of 1933, as amended (the "***Securities Act***").

You have provided us with the Registration Statement in the form in which it will be filed, which includes the prospectus (the "***Prospectus***"). The Prospectus provides that it may be supplemented by one or more supplements (each, a "***Prospectus Supplement***"). The Registration Statement, including the Prospectus, as supplemented by one or more Prospectus Supplements, will provide for the registration by the Company of up to $50,000,000 initial aggregate offering price of (a) shares of common stock, par value $0.001 per share (the "***Common Stock***"); (b) shares of preferred stock, par value $0.001 per share (the "***Preferred Stock***"), that may be exchangeable for or convertible into shares of Common Stock, other shares of Preferred Stock, Debt Securities or Warrants (each as defined hereafter); (c) debt securities (the "***Debt Securities***") that may be exchangeable for or convertible into shares of Common Stock, shares of Preferred Stock, other Debt Securities or Warrants (or which may be non-exchangeable or non-convertible); and/or (d) warrants to purchase shares of Common Stock, shares of Preferred Stock or Debt Securities (the "***Warrants***"), plus any additional shares of Common Stock, shares of Preferred Stock, Debt Securities, and/or Warrants that may be registered pursuant to any subsequent registration statement relating to the Registration Statement that the Company may hereafter file with the Commission pursuant to Rule 462(b) under the Securities Act. The Common Stock, Preferred Stock, Debt Securities, and Warrants to be offered and sold pursuant to the Registration Statement, the Prospectus, and any applicable Prospectus Supplement(s), shall be collectively referred to as the "***Securities***."

The Securities will be offered and sold, either individually or collectively, pursuant to one or more definitive purchase agreements, subscription agreements, underwriting agreements, indentures, warrant agreements, or similar agreements (any such agreement, a "***Purchase Agreement***").

In our capacity as your counsel, we are familiar with the proceedings taken and proposed to be taken by the Company in connection with the preparation and filing of the Registration Statement (including the Prospectus), the preparation and filing of any applicable Prospectus Supplement(s), and the authorization, issuance and sale of the Securities. For the purposes of this opinion, with your consent, we have assumed that (a) at the time any Securities are sold pursuant to the Registration Statement (any such time, the "***Relevant Time***"), the Registration Statement and any supplements and amendments thereto (including any post-effective amendments) will be effective and will comply with all applicable laws and regulations; (b) at the Relevant Time, one or more Prospectus Supplements will have been prepared and filed describing the Securities offered thereby and will comply with all applicable laws; (c) at the time of execution, each of the parties to any Purchase Agreement other than the Company will (i) be duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) have the requisite power and authority to execute, deliver and perform its obligations under each Purchase Agreement to which it is a party, and (iii) have duly authorized, executed and delivered each Purchase Agreement; and (d) with respect to each of the parties to each Purchase Agreement (other than the Company), such Purchase Agreement to which it is a party will constitute its legally valid and binding agreement, enforceable against it in accordance with its terms.

In connection with this opinion, we have examined and relied upon (a) the Registration Statement, (b) the Company's Articles of Incorporation filed as Exhibit 3.1 to the Registration Statement, as amended by the Certificate of Amendment of Articles of Incorporation filed as Exhibit 3.2 to the Registration Statement, as further amended by the Certificate of Change filed as Exhibit 3.3 to the Registration Statement, and as further amended by the Certificate of Amendment of Articles of Incorporation filed as Exhibit 3.4 to the Registration Statement (as so amended, and as may be further amended from time to time, the "***Articles***"), (c) the Company's Amended and Restated Bylaws filed as Exhibit 3.6 to the Registration Statement, as amended by the Certificate of Amended and Restated Bylaws filed as Exhibit 3.7 to the Registration Statement, and (d) originals or copies, certified to our satisfaction, of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity to originals of all documents submitted to us as copies.

Subject to the foregoing, and the other matters set forth herein, it is our opinion that:

1. When the Registration Statement and any required post-effective amendments thereto have all become effective under the Securities Act and (a) any and all Prospectus Supplement(s) required by applicable laws have been delivered and filed as required by such laws; (b) any applicable Purchase Agreement covering the offer and sale of the shares of Common Stock has been duly authorized, executed and delivered by the Company; (c) the issuance and delivery of the shares of Common Stock have been duly authorized in accordance with applicable laws, including, without limitation, by the adoption of resolutions of the Board of Directors of the Company (the "***Board***") (or an authorized committee thereof); and (d) payment of legal consideration for the shares of Common Stock, in the manner contemplated by the Registration Statement, the Prospectus, the related Prospectus Supplement(s), and any applicable Purchase Agreement, has been received by the Company, and assuming that (i) the terms of such shares of Common Stock, as issued and delivered, are materially consistent with the description thereof in the Registration Statement, the Prospectus, and the related Prospectus Supplement(s); (ii) at the time of the issuance of such shares of Common Stock, the Company has a sufficient number of authorized but unissued shares of Common Stock under the Articles; (iii) such shares of Common Stock, as issued and delivered, comply with all requirements and restrictions, if any, applicable to the Company, whether imposed by any court, governmental agency or regulatory body having jurisdiction over the Company or otherwise; and (iv) such shares of Common Stock are issued and sold as contemplated in the Registration Statement, the Prospectus, the related Prospectus Supplement(s), any applicable Purchase Agreement, and such resolutions of the Board (or of an authorized committee thereof), then such shares of Common Stock, including any shares of Common Stock duly issued upon (A) the exchange or conversion of any shares of Preferred Stock that are exchangeable for or convertible into shares of Common Stock, (B) the exchange or conversion of any Debt Securities that are exchangeable for or convertible into shares of Common Stock, or (C) the exercise of any Warrants that are exercisable for shares of Common Stock, will be validly issued, fully paid and nonassessable.

2. When the Registration Statement and any required post-effective amendments thereto have all become effective under the Securities Act and (a) any and all Prospectus Supplement(s) required by applicable laws have been delivered and filed as required by such laws; (b) any applicable Purchase Agreement covering the offer and sale of the shares of Preferred Stock has been duly authorized, executed and delivered by the Company; (c) the Board has properly designated a series of Preferred Stock in accordance with the terms of the Articles and applicable laws; (d) the issuance and delivery of the shares of Preferred Stock have been duly authorized in accordance with applicable laws, including, without limitation, by the adoption of resolutions of the Board (or an authorized committee thereof); and (e) payment of legal consideration for the shares of Preferred Stock, in the manner contemplated by the Registration Statement, the Prospectus, the related Prospectus Supplement(s), and any applicable Purchase Agreement, has been received by the Company, and assuming that (i) the terms of such shares of Preferred Stock, as issued and delivered, are materially consistent with the description thereof in the Registration Statement, the Prospectus, and the related Prospectus Supplement(s); (ii) at the time of the issuance of such shares of Preferred Stock, the Company has a sufficient number of authorized but unissued shares of Preferred Stock under the Articles; (iii) such shares of Preferred Stock, as issued and delivered, comply with all requirements and restrictions, if any, applicable to the Company, whether imposed by any court, governmental agency or regulatory body having jurisdiction over the Company or otherwise; and (iv) such shares of Preferred Stock are issued and sold as contemplated in the Registration Statement, the Prospectus, the related Prospectus Supplement(s), any applicable Purchase Agreement, and such resolutions of the Board (or of an authorized committee thereof), then such shares of Preferred Stock, including any shares of Preferred Stock duly issued upon (A) the exchange or conversion of any shares of Preferred Stock that are exchangeable for or convertible into another series of Preferred Stock, (B) the exchange or conversion of any Debt Securities that are exchangeable for or convertible into shares of Preferred Stock, or (C) the exercise of Warrants that are exercisable for shares of Preferred Stock, will be validly issued, fully paid and nonassessable.

3. When the Registration Statement and any required post-effective amendments thereto have all become effective under the Securities Act and (a) any and all Prospectus Supplement(s) required by applicable laws have been delivered and filed as required by such laws; (b) any applicable Purchase Agreement covering the offer and sale of the Debt Securities has been duly authorized, executed and delivered by the Company; (c) the issuance and delivery of the Debt Securities have been duly authorized in accordance with applicable law including, without limitation, by the adoption of resolutions of the Board (or an authorized committee thereof); (d) the Debt Securities have been duly executed, authenticated and/or countersigned (as applicable) in accordance with any applicable Purchase Agreement; (e) a trustee for the Debt Securities has been selected by the Company and qualified under the Trust Indenture Act of 1939, as amended, to the extent applicable; and (f) payment of legal consideration for the Debt Securities, in the manner contemplated by the Registration Statement, the Prospectus, the related Prospectus Supplement(s), and any applicable Purchase Agreement has been received by the Company, and assuming that (i) the terms of such Debt Securities, as issued and delivered, are materially consistent with the description thereof in the Registration Statement, the Prospectus, and the related Prospectus Supplement(s); (ii) the Debt Securities, as executed and delivered, do not violate any law applicable to the Company or result in a default under or breach of any agreement or instrument then binding upon the Company; (iii) the Debt Securities, as executed and delivered, comply with all requirements and restrictions, if any, applicable to the Company, whether imposed by any court, governmental agency or regulatory body having jurisdiction over the Company or otherwise; and (iv) the Debt Securities are issued and sold as contemplated by the Registration Statement, the Prospectus, the related Prospectus Supplement(s), any applicable Purchase Agreement, and such resolutions of the Board (or of an authorized committee thereof), then such Debt Securities, including any Debt Securities issuable upon (A) the exchange or conversion of any shares of Preferred Stock that are exchangeable for or convertible into Debt Securities, (B) the exchange or conversion of any Debt Securities that are exchangeable for or convertible into other Debt Securities, or (C) the exercise of any Warrants to purchase Debt Securities, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

4. When the Registration Statement and any required post-effective amendments thereto have all become effective under the Securities Act and (a) any and all Prospectus Supplement(s) required by applicable laws have been delivered and filed as required by such laws; (b) any applicable Purchase Agreement covering the offer and sale of the Warrants has been duly authorized, executed and delivered by the Company; (c) the Warrants have been duly established in accordance with the terms of any applicable Purchase Agreement; (d) the issuance and delivery of the Warrants have been duly authorized in accordance with applicable laws including, without limitation, by the adoption of resolutions of the Board (or an authorized committee thereof); (e) the Warrants have been duly executed, authenticated and/or countersigned (as applicable) in accordance with any applicable Purchase Agreement; and (f) payment of legal consideration for the Warrants (if any) in the manner contemplated by the Registration Statement, the Prospectus, the related Prospectus Supplement(s), and any applicable Purchase Agreement, has been received by the Company, and assuming that (i) the terms of the Warrants, as executed and delivered, are materially consistent with the description thereof in the Registration Statement, the Prospectus, and the related Prospectus Supplement(s); (ii) the Warrants, as executed and delivered, do not violate any law applicable to the Company or result in a default under or breach of any agreement or instrument then binding upon the Company; (iii) the Warrants, as executed and delivered, comply with all requirements and restrictions, if any, applicable to the Company, whether imposed by any court, governmental agency or regulatory body having jurisdiction over the Company or otherwise; and (iv) the Warrants are issued and sold as contemplated by the Registration Statement, the Prospectus and related Prospectus Supplement(s), any applicable Purchase Agreement and such resolutions of the Board (or of an authorized committee thereof), then such Warrants, including any Warrants issuable upon (A) the exchange or conversion of any shares of Preferred Stock that are exchangeable for or convertible into Warrants, or (B) the exchange or conversion of any Debt Securities that are exchangeable for or convertible into Warrants, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

Our opinion is expressed only with respect to the Nevada Revised Statutes. We express no opinion to the extent that any other laws are applicable to the subject matter hereof, and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

The opinions set forth in Paragraphs 3 and 4 above relating to the enforceability of the Debt Securities and Warrants, respectively, are subject to the following exceptions, limitations and qualifications: (a) the effect of bankruptcy, insolvency, reorganization, preference, fraudulent transfer, moratorium or other similar laws relating to or affecting the rights and remedies of creditors; (b) the effect of general principles of equity, whether enforcement is considered in a proceeding in equity or at law (including the possible unavailability of specific performance or injunctive relief), concepts of materiality, reasonableness, good faith and fair dealing, and the discretion of the court before which any proceeding therefor may be brought; (c) the unenforceability under certain circumstances under law or court decisions of provisions providing for the indemnification of, or contribution to, a party with respect to a liability where such indemnification or contribution is contrary to public policy; and (d) the unenforceability of any provision requiring the payment of attorneys' fees, where such payment is contrary to law or public policy.

We consent to the use of this opinion as Exhibit 5.1 to the Registration Statement, and to the reference to our firm in the Registration Statement and any amendments or supplements thereto. In giving such consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations thereunder.

This opinion is intended solely for use in connection with the issuance and sale of the Securities pursuant to the Registration Statement and is not to be relied upon for any other purpose or delivered to or relied upon by any other person without our prior written consent. This opinion is rendered as of the date hereof and based solely on our understanding of facts in existence as of such date after the examination described in this opinion. We assume no obligation to advise you of any fact, circumstance, event or change in the law or the facts that may hereafter be brought to our attention whether or not such occurrence would affect or modify the opinion expressed herein.

Very truly yours,

STRADLING YOCCA CARLSON & RAUTH LLP

/s/ Stradling Yocca Carlson & Rauth LLP

Exhibit 5.2

Stradling Yocca Carlson & Rauth LLP
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
949 725 4000
stradlinglaw.com

October 23, 2026

Expion Energy, Inc.
2025 SW Deerhound Avenue
Redmond, Oregon 97756

Re: *Securities Registered under Registration Statement on Form S-3*

Ladies and Gentlemen:

You have requested our opinion with respect to certain matters in connection with the proposed offer and sale by Expion Energy, Inc., a Nevada corporation (the "***Company***"), of shares of the Company's common stock, par value $0.001 per share ("***Common Stock***"), pursuant to a Registration Statement on Form S-3, filed with the Securities and Exchange Commission (the "***Commission***") on October 23, 2026 (as such may be amended or supplemented from time to time, the "***Registration Statement***"), the base prospectus included in the Registration Statement, which covers the offering, issuance and sale of up to an aggregate of $50,000,000 of Common Stock, preferred stock, debt securities and/or warrants of the Company (as such may be amended from time to time, the "***Base Prospectus***"), and a prospectus supplement filed by the Company with the Commission on October 23, 2026, which covers the issuance and sale of up to an aggregate of $1,666,183 of shares (the "***Shares***") of Common Stock in a manner constituting an "at the market offering" as defined in Rule 415 of the Securities Act of 1933, as amended (the "Securities Act") (as such may be amended or supplemented from time to time, the "***Prospectus Supplement***" and together with the Base Prospectus, the "***Prospectus***"). We understand the Shares are proposed to be offered and sold by the Company to or through H.C. Wainwright & Co., LLC (the "***Sales Agent***"), pursuant to that certain At-The-Market Issuance Sales Agreement, dated October 23, 2026 (the "***ATM Agreement***"), by and between the Company and the Sales Agent.

In connection with the preparation of this opinion, we have examined such documents and considered such questions of law as we have deemed necessary or appropriate. We have assumed the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies thereof and the genuineness of all signatures. As to questions of fact material to our opinions, we have relied upon the certificates of certain officers of the Company.

Based on the foregoing, we are of the opinion that the Shares have been duly authorized and, when issued and sold in the manner described in the Registration Statement, the Prospectus and the Sales Agreement, will be validly issued, fully paid and non-assessable, provided that, at the time of the issuance of such Shares, the Company has a sufficient number of authorized but unissued shares of Common Stock under the Company's Articles of Incorporation.

Our opinion assumes that, at the time of each issuance and sale of Shares under the Sales Agreement, the Company will have a sufficient number of authorized but unissued shares of Common Stock under the Company's Articles of Incorporation.

We hereby consent to the use of this opinion as Exhibit 5.1 to the Company's Current Report on Form 8-K to be filed with the Commission, and further consent to the use of our name under the caption entitled "Legal Matters" in the Prospectus. In giving such consent, we do not hereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations thereunder.

This opinion is intended solely for use in connection with the issuance and sale of the Shares pursuant to the Registration Statement and the Prospectus and is not to be relied upon for any other purpose or delivered to or relied upon by any other person without our prior written consent. This opinion is rendered as of the date hereof and based solely on our understanding of facts in existence as of such date after the examination described in this opinion. We assume no obligation to advise you of any fact, circumstance, event or change in the law or the facts that may hereafter be brought to our attention whether or not such occurrence would affect or modify the opinions expressed herein.

Very truly yours,

STRADLING YOCCA CARLSON & RAUTH LLP

/s/ Stradling Yocca Carlson & Rauth LLP

Exhibit 23.2

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-3, of our report dated March 16, 2026, which appeared in the Expion360, Inc. Annual report on form 10-K relating to the audits of the financial statements as of December 31, 2025 and 2024 and for the periods then ended. We also consent to the reference to our firm under the caption “Experts” in the Registration Statement.

/s/ M&K CPA’s, PLLC
The Woodlands, TX
October 23, 2026

CALCULATION OF FILING FEE TABLES

S-3

Expion Energy, Inc.

Table 1: Newly Registered and Carry Forward Securities

Line Item Type	Security Type	Security Class Title	Notes	Fee Calculation Rule	Amount Registered	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
				Newly Registered Securities					
Fees to be Paid	Equity	Common stock, par value $0.001 per share	(1)	Other	0	$ 0.00	$ 0.00	0.000087	$ 0.00
Fees to be Paid	Debt	Debt securities	(2)	Other	0	0.00	0.00	0.000087	0.00
Fees to be Paid	Other	Warrants	(3)	Other	0	0.00	0.00	0.000087	0.00
Fees to be Paid	Unallocated (Universal) Shelf		(4)	457(o)		$	$ 50,000,000.00	0.000087	$ 4,350.00
						Total Offering Amounts:	$ 50,000,000.00		4,350.00
						Total Fees Previously Paid:			
						Total Fee Offsets:			4,350.00
						Net Fee Due:			$ 0.00

Offering Note(s)

(1) In accordance with Rule 416 under the Securities Act of 1933, as amended (the "Securities Act"), the securities being registered hereunder shall be deemed to include an indeterminate number of shares of common stock, shares of preferred stock, warrants, and units to be issued or issuable with respect to the securities registered hereunder as a result of any stock splits, stock dividends or similar transactions.

(2) Pursuant to Instruction 2.A.iii.b. of Item 16(b) of Form S-3, this information is not specified as to each class of securities to be registered. There is being registered hereby such indeterminate number of the securities of each identified class as may from time to time be issued at indeterminate prices. Securities registered hereunder may be sold separately, or in combination with other securities registered hereunder.

(3) See Table 2 for the calculation of the total fee offsets.

(4) The proposed maximum aggregate offering price has been estimated solely to calculate the registration fee in accordance with Rule 457(o) under the Securities Act.

Table 2: Fee Offset Claims and Sources

Line Item Type	Registrant or Filer Name	Notes	Form or Filing Type	File Number	Initial Filing Date	Filing Date	Fee Offset Claimed	Security Type Associated with Fee Offset Claimed	Security Title Associated with Fee Offset Claimed	Unsold Securities Associated with Fee Offset Claimed	Unsold Aggregate Offering Amount Associated with Fee Offset Claimed	Fee Paid with Fee Offset Source
						Rules 457(b) and 0-11(a)(2)						
						Rule 457(p)						
Fee Offset Claims	Expion360 Inc.	(1)	S-3	333-272956	06/27/2023		$ 4,350.00	Unallocated (Universal) Shelf	Common Stock, Preferred Stock, Warrants, Units	0	$ 48,678,497.00	$
Fee Offset Sources	Expion360 Inc.	(2)	S-3	333-272956		06/27/2023						4,350.00

Rule 457(p) Statement of Withdrawal, Termination, or Completion:

(1) In accordance with Rule 457(p) under the Securities Act, the registrant is offsetting $5,364.37 of the fee associated with this registration statement from the fee previously paid by the registrant associated with the unsold securities registered under the registrant's prior unallocated (universal) shelf registration statement on Form S-3 originally filed on June 27, 2023 (File No. 333-272956) (the "Prior Registration Statement"), which has expired because more than three years have elapsed since the initial effective date of the Prior Registration Statement and all offerings thereunder have been completed or terminated. $48,678,4 of aggregate maximum amount remain unsold as of the time the Prior Registration Statement expired.

Offset Note(s):

(2) 2) In accordance with Rule 457(p) under the Securities Act, the registrant is offsetting $5,364.37 of the fee associated with this registration statement from the fee previously paid by the registrant associated with the unsold securities registered under the Prior Registration Statement, which has expired because more than three years have elapsed since the initial effective date of the Prior Registration Statement and all offerings thereunder have been completed or terminated. $48,678,497 of aggregate maximum amount remain unsold as of the time the Prior Registration Statement expired.