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

FORM 10-Q

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

For the quarterly period ended September 30, 2026

OR

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

For the transition period from _to

Commission file number 001-39291

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

Delaware			**84-4290188**
(State or other jurisdiction of incorporation or organization)			(I.R.S. Employer Identification No.)
Two Allegheny Center Nova Tower 2	**Pittsburgh**	**PA**	**15212**
(Address of Principal Executive Offices)			(Zip Code)

(732) 225-8400
Registrant's telephone number, including area code

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common stock, par value $0.0001 per share	EOSE	The Nasdaq Stock Market LLC
Warrant, each whole warrant exercisable to purchase one share of Common Stock at an exercise price of $5.481	EOSEW	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports); and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

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

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 13(a) of the Exchange Act. ☐

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

The registrant had outstanding 366,363,999 shares of common stock as of November 3, 2026.

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FORWARD-LOOKING INFORMATION

All statements included in this Quarterly Report on Form 10-Q ("Quarterly Report"), other than statements or characterizations of historical fact, are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. The words "anticipate," "believe," "continue," "could," "estimate," "expect," "intends," "may," "might," "plan," "possible," "potential," "predict," "project," "should," "would" and similar expressions, as they relate to us, are intended to identify forward-looking statements. These statements appear in a number of places in this Quarterly Report and include statements regarding the intent, belief or current expectations of Eos Energy Enterprises, Inc. Forward-looking statements are based on our management's beliefs, as well as assumptions made by and information currently available to, them. Because such statements are based on expectations as to future financial and operating results and are not statements of fact, actual results may differ materially from those projected. Factors which may cause actual results to differ materially from current expectations include, but are not limited to:

- *changes adversely affecting the business in which we are engaged;*
- *our ability to forecast trends accurately;*
- *our ability to generate cash, service indebtedness and incur additional indebtedness;*
- *our ability to raise financing in the future;*
- *our customers' ability to secure project financing;*
- *risks associated with the Department of Energy Loan Facility and the Credit Agreement (each as defined below), including risks of default, dilution of outstanding common stock, consequences for failure to meet milestones and contractual lockup of shares;*
- *the amount of final tax credits available to our customers or to Eos pursuant to the Inflation Reduction Act including potential impacts from any repeal or modification of the legislation;*
- *the timing and availability of future funding under the Department of Energy Loan Facility;*
- *our ability to continue to develop efficient manufacturing processes to scale and to forecast related costs and efficiencies accurately;*
- *fluctuations in our revenue and operating results;*
- *competition from existing or new competitors;*
- *our ability to convert firm order backlog and pipeline to revenue;*
- *risks associated with security breaches in our information technology systems;*
- *risks related to legal proceedings or claims;*
- *risks associated with evolving energy policies in the United States and other countries and the potential costs of regulatory compliance;*
- *risks associated with changes to the U.S. trade environment;*
- *our ability to maintain the listing of our shares of common stock on NASDAQ;*
- *our ability to grow our business and manage growth profitably, maintain relationships with customers and suppliers and retain our management and key employees;*
- *risks related to adverse changes in general economic conditions, including inflationary pressures and increased interest rates;*
- *risk from supply chain disruptions and other impacts of geopolitical conflict;*
- *changes in applicable laws or regulations; and*
- *other factors detailed under the section titled "Risk Factors" herein.*

Should one or more of these risks or uncertainties materialize, or should any of our assumptions prove incorrect, actual results may vary in material respects from those projected in these forward-looking statements. Forward-looking statements speak only as of the date they are made. Readers are cautioned not to put undue reliance on forward-looking statements and, except as required by law, the Company (as defined below) assumes no obligation and does not intend to update or revise these forward-looking statements, whether as a result of new information, future events, or otherwise. See also Part I, Item 1A, *"Risk Factors"* disclosures contained in the Company's Annual Report on Form 10-K for the year ended December 31, 2025 for additional discussion of the risks and uncertainties that could cause the Company's actual results to differ materially from those expressed or implied in its forward-looking statements.

EOS ENERGY ENTERPRISES, INC.

UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS

(In thousands, except share and per share amounts)

	September 30, 2026	December 31, 2025
ASSETS		
Current assets:		
Cash and cash equivalents	$ 271,162	$ 567,992
Restricted cash	57,923	34,636
Accounts receivable, net	8,673	6,779
Accounts receivable - related party	109	—
Inventory	86,404	59,026
Vendor deposits	20,797	11,756
Contract assets, current	18,156	13,972
Contract assets, current - related party	4,405	—
Prepaid expenses	4,128	2,701
Grant receivable, net	39,308	11,028
Other current assets	2,976	590
Total current assets	514,041	708,480
Property, plant and equipment, net	190,515	114,415
Intangible assets, net	1,657	979
Goodwill	4,331	4,331
Operating lease right-of-use asset, net	27,347	20,420
Long-term restricted cash	15,000	21,938
Investment in joint venture	297,642	—
Other assets, net	17,952	14,634
Total assets	$ 1,068,485	$ 885,197
LIABILITIES		
Current liabilities:		
Accounts payable	$ 90,478	$ 99,915
Accrued expenses	45,215	25,794
Operating lease liability, current	2,065	1,960
Long-term debt, current	—	372
Contract liabilities, current	7,521	14,975
Contract liabilities, current - related party	9,756	$ —
Other current liabilities	153	524
Total current liabilities	155,188	143,540
Long-term liabilities:		
Operating lease liability	28,804	19,182
Long-term debt	546,547	662,467
Notes payable - related party	109,210	150,427
Contract liabilities, long-term	3,723	2,506
Warrants liability	57,616	313,253
Warrants liability - related party	135,750	470,715
Deferred tax liability	4,671	—
Other liabilities	542	427
Other liabilities - related party	22,700	—
Total long-term liabilities	909,563	1,618,977
Total liabilities	1,064,751	1,762,517
COMMITMENTS AND CONTINGENCIES (NOTE 15)		
SERIES B PREFERRED STOCK - related party	463,746	1,361,542

EOS ENERGY ENTERPRISES, INC.

UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS

(In thousands, except share and per share amounts)

	September 30, 2026	December 31, 2025
SHAREHOLDERS' DEFICIT		
Common stock, $0.0001 par value, 800,000,000 shares authorized, 365,758,222 and 337,132,374 shares outstanding on September 30, 2026 and December 31, 2025, respectively	34	32
Additional paid in capital	1,809,917	427,722
Accumulated deficit	(2,193,669)	(2,535,819)
Accumulated other comprehensive loss - related party	(76,290)	(130,807)
Accumulated other comprehensive (loss) income	(4)	10
Total shareholders' deficit	(460,012)	(2,238,862)
Total liabilities, preferred stock and shareholders' deficit	$ 1,068,485	$ 885,197

The accompanying notes are an integral part of these Unaudited Condensed Consolidated Financial Statements.

EOS ENERGY ENTERPRISES, INC.

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)

(In thousands, except share and per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Revenue	$ 14,284	$ 30,512	$ 84,988	$ 56,205
Revenue - related party	68,447	—	123,481	—
Total revenue	82,731	30,512	208,469	56,205
Cost of goods sold	126,934	64,437	345,900	145,622
Gross profit (loss)	(44,203)	(33,925)	(137,431)	(89,417)
Operating expenses				
Research and development expenses	10,910	6,925	32,134	20,963
Selling, general and administrative expenses	23,819	19,786	72,414	66,269
Loss from write-down of property, plant and equipment	108	585	184	1,351
Restructuring expenses	281	—	281	—
Total operating expenses	35,118	27,296	105,013	88,583
Operating income (loss)	(79,321)	(61,221)	(242,444)	(178,000)
Other income (expense)				
Interest expense	(12,989)	(6,007)	(37,203)	(9,965)
Interest income (expense) - related parties	—	840	—	(9,451)
Interest income	2,930	1,161	9,371	2,826
Change in fair value of debt - related party	(4,534)	(3,570)	(13,300)	22,112
Change in fair value of warrants	77,746	(240,825)	223,886	(252,836)
Change in fair value of derivatives	13,222	—	108,710	—
Change in fair value of derivatives - related parties	129,551	(327,841)	346,235	(369,710)
Loss on debt extinguishment	—	(3,589)	—	(52,652)
Loss on contingently issuable securities	—	—	(35,662)	—
Other expense	(100)	(337)	103	(1,503)
Income (loss) before income taxes	126,505	(641,389)	$ 359,696	$ (849,179)
Income tax expense	1,462	4	1,480	15
Net income (loss) attributable to shareholders	125,043	(641,393)	$ 358,216	$ (849,194)
Remeasurement of Preferred Stock - related party	249,476	(691,094)	897,796	(632,483)
Down round deemed dividend	(13,802)	—	(13,802)	(4,456)
Net income (loss) applicable to common stock	$ 360,717	$ (1,332,487)	$ 1,242,210	$ (1,486,133)
Other comprehensive income (loss)				
Change in fair value of debt - credit risk - related party	$ 58,607	$ (17,784)	$ 54,517	$ (24,008)
Foreign currency translation adjustment	(1)	(3)	(14)	18
Comprehensive income (loss) attributable to common shareholders	$ 419,323	$ (1,350,274)	$ 1,296,713	$ (1,510,123)
Net income (loss) available to common shareholders (NOTE 20)	$ 232,570	$ (1,332,487)	$ 798,919	$ (1,486,133)
Basic and diluted income (loss) per share attributable to common shareholders				
Basic	$ 0.64	$ (4.88)	$ 2.30	$ (6.04)
Diluted	$ (0.17)	$ (4.88)	$ (0.44)	$ (6.04)
Weighted average shares of common stock				
Basic	361,795,384	272,839,188	347,292,217	246,192,674
Diluted	553,269,340	272,839,188	541,260,031	246,192,674

The accompanying notes are an integral part of these Unaudited Condensed Consolidated Financial Statements.

EOS ENERGY ENTERPRISES, INC.
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' DEFICIT
(In thousands, except share and per share amounts)

	Common Stock		Additional Paid in capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total
	Shares	Amount				
Balances on June 30, 2025	256,476,521	$ 25	$ 720,680	$ (49,699)	$ (1,773,973)	$ (1,102,967)
Stock-based compensation	—	—	4,768	—	—	4,768
Exercise of warrants	3,991,254	—	25,212	—	—	25,212
Exercise of stock options	325,000	—	439	—	—	439
Release of restricted stock units and performance-based restricted stock units	4,316,810	—	—	—	—	—
Issuance of common stock	16,578,810	2	102,455	—	—	102,457
Remeasurement of Preferred Stock - related party	—	—	(691,094)	—	—	(691,094)
Foreign currency translation adjustment	—	—	—	(3)	—	(3)
Change in fair value of debt - credit risk - related party	—	—	—	(17,784)	—	(17,784)
Net loss	—	—	—	—	(641,393)	(641,393)
Balances on September 30, 2025	281,688,395	$ 27	$ 162,460	$ (67,486)	$ (2,415,366)	$ (2,320,365)
Balances on June 30, 2026	340,592,001	$ 32	$ 1,406,730	$ (134,900)	$ (2,302,646)	$ (1,030,784)
Stock-based compensation	—	—	6,910	—	—	6,910
Release of restricted stock units and performance-based restricted stock units	4,877,768	—	—	—	—	—
Cancellation of shares used to settle payroll tax withholding	(280,399)	—	(1,188)	—	—	(1,188)
Issuance of common stock and warrants	20,568,852	2	113,660	—	—	113,662
Remeasurement of Preferred Stock - related party	—	—	249,476	—	—	249,476
Foreign currency translation adjustment	—	—	—	(1)	—	(1)
Change in fair value of debt - credit risk - related party	—	—	—	58,607	—	58,607
Reclassification of Contingently Issuable securities to equity	—	—	21,496	—	—	21,496
Issuance of rights	—	—	2,264	—	(2,264)	—
Down round deemed dividend	—	—	13,802	—	(13,802)	—
HBC & CCM Warrants, net of tax	—	—	(3,233)	—	—	(3,233)
Net income	—	—	—	—	125,043	125,043
Balances on September 30, 2026	365,758,222	$ 34	$ 1,809,917	$ (76,294)	$ (2,193,669)	$ (460,012)

EOS ENERGY ENTERPRISES, INC.
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' DEFICIT
(In thousands, except share and per share amounts)

	Common Stock		Additional Paid in capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total
	Shares	Amount				
Balances on December 31, 2024	221,791,205	$ 23	$ 534,726	$ (43,496)	$ (1,561,716)	$ (1,070,463)
Stock-based compensation	—	—	18,879	—	—	18,879
Exercise of warrants	8,884,356	1	53,445	—	—	53,446
Exercise of stock options	523,398	—	758	—	—	758
Release of restricted stock units and performance-based restricted stock units	12,430,564	—	—	—	—	—
Cancellation of shares used to settle payroll tax withholding	(82,438)	—	(488)	—	—	(488)
Issuance of common stock	38,141,310	3	183,167	—	—	183,170
Remeasurement of Preferred Stock - related party	—	—	(632,483)	—	—	(632,483)
Foreign currency translation adjustment	—	—	—	18	—	18
Change in fair value of debt - credit risk - related party	—	—	—	(24,008)	—	(24,008)
Down round deemed dividend	—	—	4,456	—	(4,456)	—
Net loss	—	—	—	—	(849,194)	(849,194)
Balances on September 30, 2025	281,688,395	$ 27	$ 162,460	$ (67,486)	$ (2,415,366)	$ (2,320,365)
Balances on December 31, 2025	337,132,374	$ 32	$ 427,722	$ (130,797)	$ (2,535,819)	$ (2,238,862)
Stock-based compensation	—	—	19,041	—	—	19,041
Exercise of warrants	2,050,000	—	35,031	—	—	35,031
Exercise of stock options	213,761	—	74	—	—	74
Release of restricted stock units and performance-based restricted stock units	6,207,459	—	—	—	—	—
Cancellation of shares used to settle payroll tax withholding	(414,224)	—	(2,001)	—	—	(2,001)
Issuance of common stock and warrants	20,568,852	2	113,660	—	—	113,662
Remeasurement of Preferred Stock - related party	—	—	897,796	—	—	897,796
Foreign currency translation adjustment	—	—	—	(14)	—	(14)
Change in fair value of debt - credit risk - related party	—	—	—	54,517	—	54,517
Reclassification of Contingently Issuable securities to equity	—	—	21,496	—	—	21,496
Issuance of rights	—	—	2,264	—	(2,264)	—
Down round deemed dividend	—	—	13,802	—	(13,802)	—
Reclassification of November 2025 Convertible Note embedded derivative	—	—	133,231	—	—	133,231
HBC & CCM Warrants, net of tax	—	—	147,801	—	—	147,801
Net income	—	—	—	—	358,216	358,216
Balances on September 30, 2026	365,758,222	$ 34	$ 1,809,917	$ (76,294)	$ (2,193,669)	$ (460,012)

The accompanying notes are an integral part of these Unaudited Condensed Consolidated Financial Statements.

EOS ENERGY ENTERPRISES, INC.
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands, except share and per share amounts)

	Nine Months Ended September 30,	
	2026	**2025**
Cash flows from operating activities		
Net income (loss)	$ 358,216	$ (849,194)
Adjustment to reconcile net income to net cash used in operating activities		
Stock-based compensation	19,027	19,664
Depreciation and amortization	18,989	8,980
Loss on debt extinguishment	—	52,652
Loss from write-down of property, plant and equipment	184	1,351
Amortization of right-of-use assets	2,189	1,270
Non-cash interest expense	26,712	4,263
Non-cash interest expense - related parties	—	9,204
Change in fair value of debt - related party	13,300	(22,112)
Change in fair value of warrants	(223,886)	252,836
Change in fair value of derivatives	(108,710)	—
Change in fair value of derivatives - related parties	(346,235)	369,710
Loss on contingently issuable securities	35,662	—
Other	(8,738)	(6,133)
Changes in operating assets and liabilities:		
Prepaid expenses	(1,427)	(1,440)
Inventory	(21,809)	(6,704)
Accounts receivable	(1,954)	(1,991)
Accounts receivable - related parties	(109)	—
Vendor deposits	(5,069)	(4,958)
Contract assets	(9,455)	(945)
Contract assets - related parties	(4,405)	—
Grant receivable	(28,280)	(9,965)
Accounts payable	3,688	22,166
Accrued expenses	16,721	9,132
Interest payable - related parties	—	247
Operating lease liabilities	611	(1,587)
Contract liabilities	(6,237)	(7,166)
Contract liabilities - related parties	9,756	—
Deferred tax liabilities	4,671	—
Other	(5,003)	(206)
Net cash used in operating activities	(261,591)	(160,926)
Cash flows from investing activities		
Purchases of property, plant and equipment	(105,717)	(28,804)
Investment in equity method investment	(112,638)	—
Investment in internally developed software	(232)	(912)
Other investments	(368)	—
Net cash used in investing activities	(218,955)	(29,716)
Cash flows from financing activities		
Principal payments on finance lease obligations	(69)	(39)
Proceeds from exercise of stock options	74	758
Proceeds from exercise of warrants	3,280	14,215

EOS ENERGY ENTERPRISES, INC.
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands, except share and per share amounts)

	Nine Months Ended September 30,	
	2026	**2025**
Proceeds received from DOE Loan	87,019	22,666
Proceeds from the issuance of May 2025 Convertible Notes, net of discount	—	240,000
Proceeds received from Credit and Securities Purchase Transaction, net - related party	—	38,475
Payment of debt and equity issuance costs	(854)	(4,607)
Payoff of notes payable - related parties	—	(180,940)
Payment of debt extinguishment costs	—	(781)
Return of debt repurchase premium	—	5,000
Repayment of equipment financing facility	(122)	(1,255)
Proceeds from issuance of common stock	112,738	81,075
Repurchase of shares from employees for income tax withholding purposes	(2,001)	(488)
Net cash provided by financing activities	200,065	214,079
Effect of exchange rate changes on cash, cash equivalents and restricted cash	—	—
Net (decrease) increase in cash, cash equivalents and restricted cash	(280,481)	23,437
Cash, cash equivalents and restricted cash, beginning of the period	624,566	103,362
Cash, cash equivalents and restricted cash, end of the period	$ 344,085	$ 126,799
Non-cash investing and financing activities		
Accrued and unpaid capital expenditures	$ 11,291	$ 12,441
Accrued and unpaid investment in internally developed software	$ 718	$ —
Warrants issued for formation of joint venture	$ 151,034	$ —
HBC Exchange Right/CCM Call Option for formation of joint venture	$ 33,970	$ —
Paid-in-kind interest added to principal	$ 3,416	$ 5,433
Accrued and unpaid debt issuance costs	$ 388	$ 1,910
Down round deemed dividend	$ 13,802	$ 4,456
Remeasurement of preferred stock - related party	$ (897,796)	$ 632,483
Fixed assets acquired with finance lease	$ 24	$ 181
Right-of-use operating lease assets in exchange for lease liabilities	$ 9,116	$ 672
Reclassification of Contingently Issuable securities to equity	$ 21,496	$ —
Reclassification of embedded derivative to additional paid in capital	$ 133,231	$ —
Issuance of Rights	$ 2,264	$ —
Issuance of common stock from conversion of AFG Notes	$ —	$ 102,457
Supplemental disclosures		
Cash paid for interest	$ 7,147	$ 166

The accompanying notes are an integral part of these Unaudited Condensed Consolidated Financial Statements.

1. Overview

Nature of Operations

Eos Energy Enterprises, Inc. (the "Company," "we," "us," "our," and "Eos") designs, develops, manufactures and markets innovative energy storage solutions for utility-scale, microgrid and commercial & industrial ("C&I") applications. Eos developed a broad range of intellectual property with multiple patents covering unique battery chemistry, mechanical product design, energy block configuration and a software operating system (Battery Management System). The Company has only one operating and reportable segment. See Note 21, S*egment Reporting*, for further discussion.

2. Summary of Significant Accounting Policies

Principles of Consolidation and Basis of Presentation

The accompanying Unaudited Condensed Consolidated Financial Statements include the accounts of the Company and its 100% owned, direct and indirect subsidiaries and have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP"). All intercompany transactions and balances have been eliminated in the preparation of the Unaudited Condensed Consolidated Financial Statements.

The Company is involved with joint ventures accounted for under the equity method of accounting that are variable interest entities ("VIE"). The Company is not the primary beneficiary, as the nature of the Company's involvement does not provide the Company power to direct the VIE's significant activities. Future events may require reevaluation of consolidation if the Company becomes the primary beneficiary.

The Company accounts for equity method investments at cost and adjusted each period for the Company's share of net income or loss, contributions and distributions made during the period. These investments are evaluated for impairment if events arise that the carrying amount of such assets may not be recoverable.

These statements reflect all adjustments, consisting of normal recurring adjustments, which, in the opinion of management, are necessary for fair presentation of the information contained therein. Certain information and footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to the rules and regulations of the U.S. Securities and Exchange Commission ("SEC"). The interim financial statements should be read in conjunction with the audited consolidated financial statements, including the notes thereto, included in our 2025 Annual Report on Form 10-K. These interim results are not necessarily indicative of results for the full year.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Recently Adopted Accounting Pronouncements

In July 2025, the FASB issued ASU 2025-05, *Financial Instruments - Credit Losses (Topic 326)*. The amendments in this update introduce a practical expedient aimed at simplifying the estimation of expected credit losses for current accounts receivable and current contract assets. The update is effective for annual periods beginning after December 15, 2025, including interim periods within those fiscal years. Early adoption was permitted. The Company adopted the ASU effective January 1, 2026 on a prospective basis and elected the practical expedient for the calculation of current expected credit losses. The adoption of this ASU did not have a material impact on the Company's financial statements.

2. Summary of Significant Accounting Policies (cont.)

Recently Issued Accounting Pronouncements

In November 2024, the FASB issued ASU 2024-03, *Income Statement—Reporting Comprehensive Income—Expense Disaggregation Disclosures (Subtopic 220-40)*. The amendments in this update require disaggregation of certain expense captions into specified categories in disclosures within the footnotes to the financial statements. In January 2025, the FASB issued ASU 2025-01, *Income Statement-Reporting Comprehensive Income-Expense Disaggregation Disclosures (Subtopic 220-40): Clarifying the Effective Date*. This update is effective for fiscal years beginning after December 15, 2027. Early adoption is permitted. Entities should apply the amendments in this update retrospectively to all prior periods presented in the financial statements. The Company is currently assessing its plans for adoption and evaluating the potential impact this amendment could have on its financial statements and disclosures.

In September 2025, the FASB issued ASU 2025-06, *Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40): Improvements to the Accounting for Internal-Use Software*. The amendments in this update clarify and refine the guidance for capitalizing costs related to internal-use software, including development phases and implementation activities. The update is effective for annual periods beginning after December 15, 2027, including interim periods within those fiscal years. Early adoption is permitted beginning in fiscal year 2026. The Company is currently assessing its plans for adoption and evaluating the potential impact this amendment could have on its financial statements and related disclosures.

On December 4, 2025, the FASB issued ASU 2025-10, *Government Grants (Topic 832): Accounting for Government Grants Received by Business Entities*, which adds guidance to ASC 832 on the recognition, measurement, and presentation of government grants. In the absence of such guidance, many for-profit entities historically have analogized to other GAAP, including IAS 20 or ASC 958-605, when accounting for government grants. The amendments in this update are effective for interim reporting periods within annual reporting periods beginning after December 15, 2028, for public business entities. Early adoption is permitted. The Company is currently assessing its plans for adoption and evaluating the potential impact this amendment could have on its financial statements and related disclosures.

On December 8, 2025, the FASB issued ASU 2025-11, *Interim Reporting (Topic 270): Narrow-Scope Improvements*, which is intended to improve the navigability of the guidance in ASC 270 and clarify when it applies. Under the amendments, an entity is subject to ASC 270 if it provides "interim financial statements and notes in accordance with GAAP." The amendment also addresses the form and content of such financial statements, adds lists to ASC 270 of the interim disclosures required by all other Codification topics, and establishes a principle under which an entity must "disclose events since the end of the last annual reporting period that have a material impact on the entity." As the Board stated in the proposed guidance and reiterates in the update, the amendments are not intended to "change the fundamental nature of interim reporting or expand or reduce current interim disclosure requirements". The amendments in this update are effective for interim reporting periods within annual reporting periods beginning after December 15, 2027, for public business entities, early adoption is permitted. The Company is currently assessing its plans for adoption and evaluating the potential impact this amendment could have on its financial statements and related disclosures.

On December 17, 2025, the FASB issued ASU 2025-12, *Codification Improvements* to address suggestions received from stakeholders on the Accounting Standards Codification and to make other incremental improvements to U.S. GAAP. The update represents changes to the Codification that (1) clarify, (2) correct errors, or (3) make minor improvements. The amendments make the Codification easier to understand and apply. The guidance is effective for fiscal years beginning after December 15, 2026, including interim periods within those fiscal years. The Company is currently assessing its plans for adoption and evaluating the potential impact this amendment could have on its financial statements and related disclosures.

3. Revenue Recognition

The Company primarily earns revenue from sales of its energy storage systems and services including installation, commissioning and extended warranty services. Product revenues, which are generally recognized at a point in time, and service revenues, which are generally recognized over time, are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Product revenue	$ 12,984	$ 30,209	$ 82,431	$ 54,191
Product revenue - related party	68,447	—	123,481	$ —
Service revenue	1,300	303	2,557	$ 2,014
Total revenues	$ 82,731	$ 30,512	$ 208,469	$ 56,205

For the three months ended September 30, 2026, the Company had one customer who individually accounted for greater than 10% of total revenue and collectively accounted for approximately 76.8% of the total revenue. For the nine months ended September 30, 2026, the Company had four customers who individually accounted for greater than 10% of total revenue and collectively accounted for approximately 85.2% of the total revenue.

For the three months ended September 30, 2025, the Company had one customer who individually accounted for greater than 10% of total revenue and collectively accounted for approximately 82.1% of the total revenue. For the nine months ended September 30, 2025, the Company had three customers who individually accounted for greater than 10% of total revenue and collectively accounted for approximately 73.0% of the total revenue.

Contract assets and Contract liabilities

The following table provides information about contract assets and contract liabilities from contracts with customers. Contract assets, current, Contract liabilities, current and Contract liabilities, long-term are included separately on the Unaudited Condensed Consolidated Balance Sheets and contract assets expected to be recognized in greater than twelve months are included under Other assets, net.

	September 30, 2026	December 31, 2025
Contract assets, current	$ 18,156	$ 13,972
Contract assets, current - related party	$ 4,405	$ —
Contract assets	$ 6,768	1,516
Contract liabilities, current	$ 7,521	14,975
Contract liabilities, current - related party	$ 9,756	$ —
Contract liabilities	$ 3,723	$ 2,506

Contract assets and Contract assets - related party increased by $13,841, net, during the nine months ended September 30, 2026, attributable to recognition of revenues for which invoicing has not yet occurred.

Contract assets, current and Contract assets, current – related party as of September 30, 2026, are expected to be reclassified to Accounts receivable and Accounts receivable - related party within the next twelve months. Contract assets as of September 30, 2026 are expected to be reclassified to accounts receivable in greater than twelve months.

Contract liabilities, current and Contract liabilities, current - related party as of September 30, 2026 are expected to be recognized as Revenue and Revenue - related party within the next twelve months. Contract liabilities as of September 30, 2026 are expected to be recognized as Revenue in greater than twelve months.

3. Revenue Recognition (cont.)

The following table provides information about changes in Contract liabilities and Contract liabilities - related party:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Contract liabilities, beginning of the period	$ 9,886	$ 39,537	$ 17,481	$ 26,349
Amounts in beginning balance recognized in revenue	(4,074)	(10,989)	(14,711)	(22,102)
Revenue recognized in current period	(56,060)	(20,102)	(105,988)	(31,353)
Advance payments received from customers	71,248	10,737	124,218	46,289
Contract liabilities, end of the period	$ 21,000	$ 19,183	$ 21,000	$ 19,183

Remaining Performance Obligations

Remaining performance obligations ("RPO") represent the allocated transaction price of unsatisfied or partially unsatisfied performance obligations. The Company expects to recognize revenue related to the RPOs as the performance obligations are satisfied in accordance with the Company's revenue recognition policy, which can be found in Note 2, *Summary of Significant Accounting Policies,* of the Company's Annual Report on Form 10-K for the year ended December 31, 2025. As of September 30, 2026, the Company's remaining performance obligations, excluding contracts that will be satisfied in less than one year, were approximately $27,319. The Company expects to recognize revenue of approximately 81% of the remaining performance obligations over the next twelve months, with the remainder recognized thereafter.

4. Cash, Cash Equivalents and Restricted Cash

Restricted cash - current as of September 30, 2026, consists of (i) accounts related to the DOE Loan Facility for reserves related to warranty claims, debt servicing, the Davis Bacon Act, secured letters of credit, escrow deposits related to U.S. Custom Bonds insurance and escrow deposits related to our credit card program agreements and (ii) the interest reserve account maintained pursuant to the second Limited Consent Agreement between the Company and the DOE (the "Second DOE Limited Consent Agreement"), which is equivalent to twelve months of interest payments of the May 2025 Convertible Notes and the November 2025 Convertible Notes.

Restricted cash - current as of September 30, 2025, consists of accounts related to the DOE Loan Facility for reserves related to warranty claims, debt servicing, the Davis Bacon Act, secured letters of credit, escrow deposits related to U.S. Custom Bonds insurance, escrow deposits related to our credit card program agreements and interest reserve account maintained pursuant to the DOE Limited Consent Agreement equivalent to one year of interest expense of the May 2025 Convertible Notes.

Long-term restricted cash as of September 30, 2026, relates to, as defined in the credit and guaranty agreement ("Credit Agreement"), the Minimum Liquidity covenant. Under the Minimum Liquidity covenant, as defined in the Credit Agreement and the DOE Loan Facility, the Company shall not permit cash and cash equivalents at any time be less than $15,000.

Long-term restricted cash as of September 30, 2025, relates to the Minimum Liquidity covenant, prior to the first tranche funding the Minimum Liquidity covenant, the Company shall not permit cash and cash equivalents at any time be less than $15,000. On May 28, 2025, the Company and the DOE entered into a Limited Consent Agreement ("DOE Limited Consent Agreement"), in which the remainder of Long-term restricted cash relates to an interest reserve account maintained pursuant to the DOE Limited Consent Agreement equivalent to one year of interest expense of the May 2025 Convertible Notes. Restricted cash per the DOE Limited Consent Agreement shall be reduced by the amounts of any actual interest payments made for the May 2025 Convertible Notes, but shall not be less than all interest payments on the May 2025 Convertible Notes due within 12 months.

4. Cash, Cash Equivalents and Restricted Cash (cont.)

The following table reconciles reported amounts from the Unaudited Condensed Consolidated Balance Sheets to Cash, Cash Equivalents and Restricted Cash reported within the Unaudited Condensed Consolidated Statements of Cash Flows:

	September 30, 2026	September 30, 2025
Cash and cash equivalents	$ 271,162	$ 58,733
Restricted cash - current	57,923	36,946
Long-term restricted cash	15,000	31,120
Total cash, cash equivalents and restricted cash	$ 344,085	$ 126,799

5. Inventory

The following table provides information about Inventory balances:

	September 30, 2026	December 31, 2025
Raw materials	$ 53,552	$ 44,501
Work-in-process	30,711	13,701
Finished goods	2,141	824
Total Inventory	$ 86,404	$ 59,026

6. Property, Plant and Equipment, Net

The following table provides information about Property, plant and equipment, net balances:

	Estimated Useful lives	September 30, 2026	December 31, 2025
Equipment	5 - 10 years	$ 172,977	$ 79,272
Furniture	5 - 10 years	4,170	3,149
Leasehold improvements	Lesser of useful life/ remaining lease	14,846	14,146
Tooling	2 - 3 years	18,988	16,192
Construction in progress (“CIP”)		32,495	36,644
Total		243,476	149,403
Less: Accumulated depreciation		(52,961)	(34,988)
Total property, plant and equipment, net		$ 190,515	$ 114,415

Depreciation expense related to property, plant and equipment was $7,436 and $3,341 for the three months ended September 30, 2026 and 2025, and $18,717 and $8,907 for the nine months ended September 30, 2026 and 2025, respectively.

The Company recorded a loss from write-down of property, plant and equipment of $108 and $585 for the three months ended September 30, 2026 and 2025, and $184 and $1,351 for the nine months ended September 30, 2026 and 2025, respectively.

For the three and nine months ended September 30, 2026, capitalized interest costs recognized was $1,526 and $4,267, respectively. For the three and nine months ended September 30, 2025, capitalized interest costs recognized was $300 and $657, respectively.

7. Intangible Assets

Intangible assets consisted of various patents and internal-use software. The patents are determined to have useful lives and are amortized into the results of operations over ten years. The internal-use software has a useful life and is amortized into the results of operations over three years.

	September 30, 2026			December 31, 2025		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Patents	$ 400	$ 310	$ 90	$ 400	$ 280	$ 120
Internal-Use Software	2,035	468	1,567	1,085	226	859
Total Intangible Assets	$ 2,435	$ 778	$ 1,657	$ 1,485	$ 506	$ 979

The Company recorded amortization expense of $92 and $25 for the three months ended September 30, 2026 and 2025, and $272 and $74 for the nine months ended September 30, 2026 and 2025, respectively. Estimated future amortization expense of intangible assets as of September 30, 2026 are as follows:

	Amortization Expense
Remainder of 2026	$ 117
2027	669
2028	584
2029	287
2030	—
Thereafter	—
	$ 1,657

8. Equity Method Investment

Frontier Power USA

On August 4, 2026, we acquired a 36% ownership interest in Frontier Power USA Parent, LLC (“FPUSA”) for a total consideration of $297,642. We account for this investment under the equity method of accounting because we have the ability to exercise significant influence, but do not have a controlling financial interest.

We evaluated our involvement with FPUSA under the guidance for variable interest entities and determined that FPUSA is a VIE. Our maximum exposure to loss related to this unconsolidated VIE is generally limited to the carrying value of our investment in FPUSA. The Company elected to recognize its proportional share of the income or loss from the equity method investment on a financial reporting lag of one fiscal quarter attributable to the timing of financial information. Therefore, no income or loss from the equity method investment was recognized for the period ended September 30, 2026.

Basis Differences

The carrying amount of our equity method investment in FPUSA may differ from our proportionate share of the underlying equity in FPUSA attributable to basis differences. Amortization of basis differences, if any, is included in equity method investment income (loss). Any basis difference related to non-depreciable assets, including goodwill, is generally not amortized, but is subject to impairment testing as necessary.

9. Accrued Expenses (cont.)

Accrued expenses were as follows:

	September 30, 2026	December 31, 2025
Accrued payroll	$ 12,255	$ 4,471
Warranty reserve [1]	15,156	9,469
Accrued legal and professional expenses	1,810	1,570
Provision for contract losses	4,373	6,138
Accrued interest	4,455	1,196
Accrued capital expenditures	3,605	500
Other	3,561	2,450
Total accrued expenses	$ 45,215	$ 25,794

[1] Refer to the table below for the warranty reserve activity for the three and nine months ended September 30, 2026.

The following table summarizes warranty reserve activity:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Warranty reserve - beginning of period	$ 12,690	$ 5,917	$ 9,469	$ 5,102
Additions for current period deliveries	2,478	802	6,737	1,898
Changes in the warranty reserve estimate	—	—	(923)	543
Warranty costs incurred	(12)	(1,050)	(127)	(1,874)
Warranty reserve - end of period	$ 15,156	$ 5,669	$ 15,156	$ 5,669

10. Government Grants

One Big Beautiful Bill Act ("OBBBA")

On July 4, 2025, President Trump signed the One Big Beautiful Bill Act into law, introducing several modifications to the energy-related tax incentives originally established under the Inflation Reduction Act. The OBBBA maintained tax credits available to manufacturers and includes a credit for 10% of qualified costs incurred to make electrode active materials in addition to credits of $35 per kWh of capacity for eligible battery cells and $10 per kWh of capacity for eligible battery modules. These credits are cumulative, meaning that companies are able to claim each of the available tax credits based on the battery components produced and sold through 2029, after which the PTC will begin to gradually phase down through 2032. The OBBBA introduces new limitations related to the sourcing of materials from a prohibited foreign entity starting after December 31, 2025. These provisions restrict eligibility for credits where material assistance is received from such entities. Additionally, the OBBBA includes ownership and effective control related provisions concerning 'specified foreign entities' and 'foreign-influenced entities'. The Company has evaluated the OBBBA and determined there is no impact on the financial statements. The Company will evaluate additional guidance as it becomes available.

Since the PTC is a refundable credit (i.e., a credit with a direct-pay option available), the PTC is outside the scope of ASC 740. Therefore, the Company accounts for the PTC under a government grant model. GAAP does not currently address the accounting for government grants received by a business entity that are outside the scope of ASC 740. The Company's accounting policy is to analogize to IAS 20, *Accounting for Government Grants and Disclosure of Government Assistance,* under IFRS Accounting Standards. Under IAS 20, once it is reasonably assured that the entity will comply with the conditions of the grant, the grant money is recognized on a systematic basis over the periods in which the entity recognizes the related expenses or losses for which the grant money is intended to compensate. The Company recognizes grants once it is probable that both of the following conditions will be met: (1) the Company is eligible to receive the grant and (2) the Company is able to comply with the relevant conditions of the grant.

10. Government Grants (cont.)

The PTC is recorded as the applicable items become finished goods and the conditions in the preceding paragraph are met. The PTC credits are recognized at, and subsequently adjusted to, their net realizable value, which represents the amount expected to be received.

During the third quarter of 2026, the Company entered into tax credit purchase agreement to sell and transfer all of the remaining PTCs related to the production and sale of battery cells and battery modules and electrode active materials produced in calendar year 2025, that were eligible to be claimed on the Company's tax return. The transferred tax credits were sold during the three months ended September 30, 2026 for $10,997.

Upon the receipt of the cash payment, the Company recorded offsets to the PTC/Grant Receivable account. There were minimal differences between the recorded fair value of the PTC receivable and the amount of consideration received. The differences will be recognized as an adjustment to cost of goods sold.

The Company recognized PTC credits of $15,979 and $5,660 for the three months ended September 30, 2026 and 2025, and $38,777 and $12,020 for the nine months ended September 30, 2026 and 2025, respectively, as a reduction of cost of goods sold on the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). As of September 30, 2026, and December 31, 2025, grant receivable related to the PTC in the amount of $39,308 and $11,028, respectively, is recorded in the Unaudited Condensed Consolidated Balance Sheets.

11. Related Party Transactions

Credit and Securities Purchase Transaction

On June 21, 2024, the Company entered into a Securities Purchase Agreement (the "SPA") with CCM Denali Equity Holdings, LP. Additionally, the Company also entered into a Credit Agreement with CCM Denali Debt Holdings, LP, an affiliate of Cerberus Capital Management LP ("Cerberus", "Lender"). The SPA and the Credit and Guaranty Agreement are collectively referred to as the "Credit and Securities Purchase Transaction". Pursuant to the terms and conditions of Credit and Securities Purchase Transaction, Cerberus and CCM Denali Equity Holdings, LP, are considered related parties as result of the transactions.

The Company incurred fees from three vendors affiliated with Cerberus for the periods ending September 30, 2026 and four vendors affiliated with Cerberus for the periods ending September 30, 2025, included in Cost of goods sold, Selling, general and administrative expenses in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss) and Intangible assets, net in the Unaudited Condensed Consolidated Balance Sheets. These expenses were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Advisory fees	$ 219	$ 249	$ 1,309	$ 2,740
Manufacturing costs	—	528	—	1,902

As of September 30, 2026 and December 31, 2025, amounts due to these vendors affiliated with Cerberus were $862 and $285, respectively. These amounts are included in Accounts payable and Accrued expenses in the Unaudited Condensed Consolidated Balance Sheets.

The Company entered into revenue contracts with FPUSA and affiliates. For the three and nine months ended September 30, 2026, the Company recognized revenue from related parties of $68,447 and $123,481 respectively, in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). As of September 30, 2026, the Company had Accounts receivable - related party of $109, Contract assets, current - related party of $4,405 and Contract liabilities, current - related party of $9,756 included within the Unaudited Condensed Consolidated Balance Sheets.

12. Borrowings

The Company's debt obligations consist of the following:

			September 30, 2026		December 31, 2025	
	Maturity Date	Effective Interest Rate	Principal Outstanding	Carrying Value*	Principal Outstanding	Carrying Value*
Delayed Draw Term Loan	June 2034[1]	N/A	$ 205,017	$ 109,210	$ 194,419	$ 150,427
Notes payable - related party			205,017	109,210	194,419	150,427
Equipment financing facility	April 2026	16.2 %	—	—	372	372
May 2025 Convertible Notes	June 2030	7.8 %	50,000	48,322	50,000	48,044
November 2025 Convertible Notes	December 2031	14.2 %	600,000	326,789	600,000	530,096
DOE Loan Facility	June 2034[1]	7.1%[2]	185,120	171,436	94,685	84,327
Total borrowings			1,040,137	655,757	939,476	813,266
Current portion			—	—	372	372
Total borrowings, non-current			$ 1,040,137	$ 655,757	$ 939,104	$ 812,894

*Carrying value as of September 30, 2026 includes unamortized deferred financing costs and unamortized discounts, except for the Delayed Draw Term Loan, which is carried at fair value. Carrying value as of December 31, 2025 includes unamortized deferred financing costs, unamortized discounts and fair value of embedded derivative liabilities, except for the Delayed Draw Term Loan, which is carried at fair value.

[1] The DDTL and DOE Loan Facility contain Springing Maturity Dates that could make the debt due March 14, 2030.

[2] This represents a weighted average of all outstanding draws under the DOE Loan Facility. The first draw has an effective interest rate of 7.6%, the second draw has an effective interest rate of 8.0% and the draw of tranche 2 has an effective interest rate of 6.4%.

2021 Convertible Note Payable – Related Party

On July 6, 2021, the Company entered into an investment agreement with Spring Creek Capital, LLC, a wholly owned, indirect subsidiary of Koch Industries. This investment agreement was entered into with B. Riley Securities, Inc., a related party that acted as a placement agent. The investment agreement provides for the issuance and sale to Koch Industries of the 2021 Convertible Note in the aggregate principal amount of $100,000. The maturity date of the 2021 Convertible Notes was June 30, 2026, subject to earlier conversion, redemption or repurchase.

Interest expense recognized on the 2021 Convertible Note is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Contractual interest expense	$ —	$ —	$ —	$ 3,072
Amortization of debt discount	—	—	—	3,230
Amortization of debt issuance costs	—	—	—	311
Total	$ —	$ —	$ —	$ 6,613

Termination of the 2021 Convertible Notes

On June 3, 2025, the Company repurchased the full $122,868 aggregate principal amount, in addition to $3,072 of interest payable outstanding for $131,000 inclusive of a repurchase premium in a privately negotiated transaction. The holder of the 2021 Convertible Notes was contingently required to reimburse the Company for up to $5,000 of the repurchase premium based on the holders' overall return on its investment in the Company. On June 13, 2025, the Company received the $5,000 repurchase premium. Neither the holder of the 2021 Convertible Notes, nor the Company have any outstanding contractual obligations. Absent termination, the 2021 Convertible Notes would have matured on June 30, 2026.

The Company accounted for the termination of the 2021 Convertible Notes in accordance with ASC 470-50, Debt- Modifications and Extinguishments. As a result, the Company recognized a loss on debt extinguishment for the 2021 Convertible Notes of $10,688 in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Loss for the nine months ended September 30, 2025.

12. Borrowings (cont.)

AFG Convertible Notes - Related Party

In January 2023, the Company issued and sold $13,750 in aggregate principal amount of 26.5% Convertible Senior PIK Notes due 2026 (“AFG Convertible Notes”) to Great American Insurance Company, Ardsley Partners Renewable Energy, LP, CCI SPV III, LP, Denman Street LLC, John B. Berding Irrevocable Children’s Trust, John B. Berding and AE Convert, LLC (the "Affiliated Purchasers") (together, the “Purchasers”). AE Convert LLC, a Delaware limited liability company was managed by Russell Stidolph, a related party as Mr. Stidolph was a director of the Company. The AFG Convertible Notes bear interest at a rate of 26.5% per annum, as amended, to be reduced to 7.0%, commencing on June 30, 2026 (the “Original Maturity Date”), which was entirely paid-in-kind (“PIK Interest”) semi-annually in arrears on June 30 and December 30. It was expected that the AFG Convertible Notes would have matured on September 30, 2034, subject to earlier conversion, redemption or repurchase. The AFG Convertible Notes were convertible into shares of the Company’s common stock, par value $0.0001 per share, based on an initial conversion price of approximately $1.67 per share subject to customary anti-dilution and other adjustments. The Company had the right to settle conversions in shares of common stock, cash, or any combination thereof.

On July 29, 2025, the Company entered into a first supplemental indenture dated as of July 28, 2025 to the indenture dated May 25, 2023 (the “AFG Indenture”) with Wilmington Trust, National Association, as trustee, relating to the AFG Convertible Notes (the “First Supplemental Indenture”), to (1) extend the maturity date of the AFG Convertible Notes to September 30, 2034; (2) reduce the interest rate of the AFG Convertible Notes to 7.0%, commencing on June 30, 2026; (3) amend the optional redemption provision therein to allow for optional redemption pro rata excluding the Affiliated Purchaser; and (4) amend the meaning of Redemption Price therein to include the optional redemption price payable to the holders that will vary depending on the timing of the redemption relative to the Original Maturity Date of the AFG Convertible Notes. If redeemed on or before the Original Maturity Date, holders receive the capitalized principal plus all interest they would have earned through the Original Maturity Date, including interest on capitalized interest. If redeemed after the Original Maturity Date, holders receive the capitalized principal plus accrued interest up to, but not including, the redemption date. On August 1, 2025 the Company issued a Notice of Redemption of Non-Affiliated Holders for all outstanding AFG Convertible Notes. As such, there was no derivative liability associated with the non-affiliated AFG Convertible Notes at September 30, 2025. Refer to Conversion of AFG Convertible Notes below for further information.

Under ASC 470-50, Debt- Modifications and Extinguishments, the First Supplemental Indenture was accounted for as a substantial modification pertaining to the non-affiliated holders. As a result, the Company recognized a loss on debt extinguishment for the non-affiliated AFG Convertible Notes of $3,589 in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Loss for the three and nine months ended September 30, 2025.

Conversion of AFG Convertible Notes

On August 1, 2025, the Company issued a Notice of Redemption of Non-Affiliated Holders for all outstanding AFG Convertible Notes, pursuant to which the Company intended to fully redeem the AFG Convertible Notes (other than those held by the Affiliated Purchasers) on August 18, 2025 for a redemption price equal to the then-current capitalized principal amount of the AFG Convertible Notes (other than those held by the Affiliated Purchasers) plus the aggregate amount of all accrued and unpaid or uncapitalized interest payments on the capitalized principal amount of the AFG Convertible Notes (other than those held by the Affiliated Purchasers) that the holders of the AFG Convertible Notes to be redeemed would have been entitled to receive had the AFG Convertible Notes remained outstanding to June 30, 2026. In accordance with the terms of the AFG Indenture and the Notice of Redemption of Non-Affiliated Holders, each of the holders of the AFG Convertible Notes (other than those held by the Affiliated Purchasers) opted to exercise its conversion right to convert all of such holder’s outstanding AFG Convertible Notes into shares of Common Stock at a conversion rate equal to 598.8024 shares of Common Stock per $1,000 capitalized principal amount of AFG Convertible Notes. During the third quarter of 2025, the Company issued 16,578,810 shares of Common Stock in the aggregate to such holders of the AFG Convertible Notes (other than those held by the Affiliated Purchasers).

12. Borrowings (cont.)

At the Special Meeting of Stockholders of the Company, held on October 16, 2025, the Company's stockholders approved, for purposes of complying with Nasdaq Listing Rules, including, but not limited to, Rule 5635, the Company's issuance of shares of the Company's common stock to the Affiliated Purchasers upon redemption or conversion of the AFG Convertible Notes pursuant to the AFG Indenture as supplemented by the First Supplemental Indenture. After obtaining the stockholder approval, the Company issued a notice of redemption to the Affiliated Purchasers on October 24, 2025 for all outstanding AFG Convertible Notes held by the Affiliated Purchasers, pursuant to which the Company intended to fully redeem the remaining AFG Convertible Notes on November 10, 2025 for a redemption price equal to the then-current capitalized principal amount of the AFG Convertible Notes plus the aggregate amount of all accrued and unpaid or uncapitalized interest payments on the capitalized principal amount of the AFG Convertible Notes that the Affiliated Purchasers would have been entitled to receive had the AFG Convertible Notes remained outstanding at the Original Maturity Date. On October 28, 2025, in accordance with the terms of the AFG Indenture and the notice of redemption, the Affiliated Purchasers opted to exercise its conversion right to convert all of its outstanding AFG Convertible Notes into shares of Common Stock at a conversion rate equal to 598.8024 shares of Common Stock per $1,000 capitalized principal amount of AFG Convertible Notes. During the fourth quarter of 2025, the Company issued 2,863,291 shares of Common Stock to the Affiliated Purchasers.

Interest expense recognized on the AFG Convertible Notes is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Contractual interest expense	$ —	$ 247	$ —	$ 3,209
Amortization of debt discount	—	(848)	—	(290)
Amortization of issuance costs	—	(239)	—	(81)
Total	$ —	$ (840)	$ —	$ 2,838

Delayed Draw Term Loan ("DDTL")

Under the terms of the Credit Agreement the Company entered into a multi-draw facility (the "Delayed Draw Term Loan" or "DDTL") on June 21, 2024, with CCM Denali Debt Holdings, LP, the Company drew an aggregate principal amount of $210,500 through multiple tranches upon satisfaction of the applicable milestone requirements. The draws were subject to a 5.0% original issue discount and applicable lender fees. The total net proceeds were approximately $198,800. Additionally, as part of the strategic investment under the Credit and Guaranty Agreement, the Company may access a $105,000 revolving facility at the sole discretion of the Lenders' as the Delayed Draw Term Loan has been fully funded as of January 24, 2025.

Covenants

On May 28, 2025, the Company amended the Credit Agreement, by and among the Company, certain of the Company's subsidiaries as guarantors party thereto and the Lender, pursuant to which among other things, the applicability of the Minimum Consolidated Revenue and Minimum Consolidated Earnings before interest, tax, depreciation and amortization ("EBITDA") financial covenants were deferred until March 31, 2027 and certain provisions were amended to conform with comparable provisions in the DOE Loan Facility.

The Credit Agreement, as amended, contains the following financial covenants, including (each as defined in the Credit Agreement, as amended):

- Minimum Consolidated EBITDA - not applicable for September 30, 2026.
- Minimum Consolidated Revenue - not applicable for September 30, 2026.
- Minimum Liquidity

12. Borrowings (cont.)

As of and for the three months ended September 30, 2026, the Company was in compliance with the Minimum Liquidity financial covenant.

The facilities are subject to certain events of default which can be triggered by, among other things, (i) breach of payment obligations and other obligations and representations in the Credit Agreement or related documents, (ii) default under other debt facilities with a principal above a predetermined amount, (iii) failure to perform or comply with certain covenants in the Credit Agreement, (iv) entry into a decree or order for relief in respect of the Company or any of its subsidiaries in an involuntary case under the Bankruptcy Code of the United States or under any other debtor relief law, (v) any money judgment, writ or warrant of attachment or similar process involving in the aggregate at any time an amount in excess of $2,500, (vi) any order, judgment or decree entered against the Company or the Guarantors decreeing the dissolution or split up of such entity, (vii) the failure of the common stock to be listed on an internationally recognized stock exchange in the United States and (viii) a change of control.

The Company elected the fair value option to account for all draws under the DDTL for operational purposes. The financial liability was initially measured at its issue-date fair value and is subsequently remeasured at fair value on a recurring basis at each reporting period date.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
(Loss) Gain on change in fair value[a]	$ (4,534)	$ (3,570)	$ (13,300)	$ 22,112
Loss attributable to changes in instrument-specific credit risk[b]	$ 58,607	$ (17,784)	$ 54,517	$ (24,008)

(a) This is included in Change in fair value of debt - related party on the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

(b)This is included in Change in fair value of debt - credit risk - related party in Accumulated other comprehensive Income (Loss).

The Company did not separately report interest expense attributable to the DDTL because such interest was included in the determination of the fair value of the Note. See Note 14, *Fair Value Measurement* for the assumptions used to determine the fair value of the Delayed Draw Term Loan at issuance and at September 30, 2026.

Contractual Interest Rates - Borrowings under the Credit Agreement bear interest at an annual rate equal to 7.0% per annum (as amended), subject to the following increases: (i) an additional 5.0% per annum upon the occurrence of an event of default under the Credit Agreement. The Company may elect to add accrued and unpaid interest on the loans to the principal amount of the loans (capitalized interest).

Maturity - The Maturity Date is defined as the earlier of (i) June 15, 2034, and (ii) the date that all the loans shall become due and payable in full, whether by acceleration or otherwise; provided that, if on any Springing Maturity Date any Convertible Notes remain outstanding, the Maturity Date shall instead be the Springing Maturity. The Springing Maturity Date is defined as the 91st day prior to the date on which any convertible note may be redeemed, repurchased, converted, or exchanged in satisfaction of the obligations ("Convertible Note Maturity"). As of September 30, 2026, the May 2025 Convertible Notes and November 2025 Convertible Notes, remain outstanding and are scheduled to mature on June 15, 2030 and December 1, 2031 respectively.

Prepayments - On May 28, 2025, the Company made a prepayment of $47,619 on the DDTL, net of an end of term fee of $2,381, as in accordance with the terms the DDTL, as amended May 28, 2025.

12. Borrowings (cont.)

Modification of the DDTL - In accordance with applicable accounting standards, the prepayment and Cerberus amendments were evaluated under the debt modification and extinguishment guidance in ASC 470-50, *Debt - Modification and Extinguishments* during the nine months ended September 30, 2025. The amendments to the DDTL did not qualify for the extinguishment accounting under ASC 470-50 as a whole, and were accounted for as a modification. The total prepayment of $50,000 as required by the amended DDTL was accounted for as a partial extinguishment. The loss on partial extinguishment was $38,375 after reclassification of accumulated other Comprehensive Income (Loss) through earnings for $16,245 was recognized during the nine months ended September 30, 2025.

Equipment Financing facility

The Company entered into an agreement on September 30, 2021 with Trinity Capital Inc. ("Trinity") for a $25,000 equipment financing facility, the proceeds of which will be used to acquire certain manufacturing equipment, subject to Trinity's approval. Each draw is executed under a separate payment schedule (a "Schedule") that constitutes a separate financial instrument. The financing fees included in each Schedule are established through monthly payment factors determined by Trinity. Such monthly payment factors are based on the Prime Rate reported in The Wall Street Journal in effect on the first day of the month in which a Schedule is executed. The Company has drawn a portion of the facility as follows:

Date of Draw	Gross Amount of Initial Draw	Coupon Interest Rate	Debt Issuance Costs
September 2021	$ 7,000	14.3%	$ 175
September 2022	4,216	16.2%	96
Total Equipment Financing loans	$ 11,216		$ 271

As of September 30, 2026 and December 31, 2025, total equipment financing carrying value was $0 and $372, respectively of which $0 and $372 are recorded as a current liability on the Unaudited Condensed Consolidated Balance Sheets, respectively. The Equipment Financing Facility was terminated in March 2026.

Interest expense attributable to the equipment financing agreement was $0 and $52 for the three and nine months ended September 30, 2026 and $39 and $177 for the three and nine months ended September 30, 2025, respectively.

May 2025 Convertible Notes

On June 3, 2025, the Company issued $225,000 principal amounts of its May 2025 Convertible Notes. The Company granted initial purchasers an option to purchase, for settlement within a period of thirteen days from the date the May 2025 Convertible Notes were first issued, up to an additional $25,000 principal amounts which were exercised in full. The May 2025 Convertible Notes will accrue interest at a rate of 6.75% per annum, payable semi-annually in arrears on June 15 and December 15, beginning on December 15, 2025.

Maturity- The May 2025 Convertible Notes will mature on June 15, 2030, absent conditions described below.

Conversion Rights - The May 2025 Convertible Notes can be converted into shares of our common stock under certain conditions before March 15, 2030:

- **Stock Price Trigger:** If, during any calendar quarter starting after September 30, 2025, our stock price closes above 130% of the conversion price for at least 20 out of the last 30 trading days of that quarter.
- **Trading Price Condition:** If, during a 10-day period, the trading price of the notes falls below 98% of the product of the last reported sale price per share of our common stock on such trading day and the conversion rate on such trading day, then conversion is allowed during the five business days that follow.
- **Corporate Events:** Upon the occurrence of certain corporate events or distributions on our common stock.

12. Borrowings (cont.)

- **Redemption:** If the Company calls such notes for redemption on or after June 20, 2028, then the holders may choose to convert them at that time.

Beginning March 15, 2030, the notes can be converted at any time until two trading days prior to maturity.

The initial conversion price was approximately $5.10 per share, and the Company may choose to settle conversions in stock, cash or a mix of both. The conversion price is subject to customary adjustments upon the occurrence of certain events. If a make-whole fundamental change (as defined in the May 2025 Convertible Notes Indenture) occurs, the conversion rate may temporarily increase to provide additional value. The May 2025 Convertible Notes have adjusted conversion prices based on the issuance of shares and warrants as part of the Rights Offering. As of September 30, 2026 the conversion rate is $5.06 per share.

Redemption - The May 2025 Convertible Notes will be redeemable, in whole or in part, at the Company's option at any time, and from time to time, on or after June 20, 2028 and on or before the 41st scheduled trading day immediately before the maturity date, but only if certain liquidity conditions are satisfied and the last reported sale price per share of the Company's common stock exceeds 130% of the conversion price on (i) each of at least 20 trading days, whether or not consecutive, during the thirty consecutive trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice; and (ii) the trading day immediately before the date the Company sends such redemption notice. However, the Company may not redeem less than all of the outstanding notes unless at least $75,000 aggregate principal amount of notes are outstanding and not called for redemption as of the time the Company sends the related redemption notice. The redemption price is equivalent to the principal amount of the May 2025 Convertible Notes called for redemption, plus accrued and unpaid interest. In addition, calling any note for redemption will constitute a make-whole fundamental change with respect to that note, in which case the conversion rate applicable to the conversion of that note will be increased in certain circumstances if it is converted after it is called for redemption.

Embedded Derivatives - The May 2025 Convertible Notes include certain embedded features, such as provisions for fundamental change, additional interest, special interest and indemnification. In accordance with ASC 815, the Company assessed these embedded features to determine whether bifurcation and separate accounting as derivatives was required. Although these features are not clearly and closely related to the host debt contract and meet the definition of a derivative under ASC 815, the Company determined that the combined fair value of these embedded derivatives is de minimis. Accordingly, these features have not been bifurcated from the host contract and are not accounted for separately. The Company will continue to evaluate these features for any changes in facts or circumstances that may warrant reconsideration of this assessment.

Additionally, the conversion feature embedded in the May 2025 Convertible Notes qualifies for the scope exception under ASC 815-40 and, therefore, is not required to be bifurcated and accounted for separately.

Interest expense recognized on the May 2025 Convertible Notes is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Contractual interest expense	$ 844	$ 4,313	$ 2,531	$ 5,536
Amortization of debt discount	96	417	255	532
Amortization of debt issuance costs	8	36	22	46
Total	$ 948	$ 4,766	$ 2,808	$ 6,114

12. Borrowings (cont.)

The carrying value for the May 2025 Convertible Notes is as follows:

	September 30, 2026	December 31, 2025
Principal	$ 50,000	$ 50,000
Unamortized debt discount	(1,543)	(1,799)
Unamortized debt issuance costs	(135)	(157)
Aggregate carrying value	$ 48,322	$ 48,044

The Company is obligated to repay all contractual interest attributable to the May 2025 Convertible Notes on a semi-annual basis in cash. As of September 30, 2026 and December 31, 2025, $984 and $141, respectively of interest payable attributable for the May 2025 Convertible Notes was included in Accrued expenses in the Unaudited Condensed Consolidated Balance Sheets.

November 2025 Convertible Notes

On November 24, 2025, the Company issued $525,000 principal amounts of its November 2025 Convertible Notes. The Company granted initial purchasers an option to purchase, for settlement within a period of thirteen days from the date the November 2025 Convertible Notes were first issued, up to an additional $75,000 principal amounts which were exercised in full on November 24, 2025. The November 2025 Convertible Notes will accrue interest at a rate of 1.75% per annum, payable semi-annually in arrears on June 1 and December 1 of each year, beginning on June 1, 2026.

Maturity- The November 2025 Convertible Notes will mature on December 1, 2031, absent conditions described below.

Conversion Rights - The November 2025 Convertible Notes can be converted into shares of our common stock under certain conditions before September 3, 2031:

- **Stock Price Trigger:** If, during any calendar quarter starting after June 30, 2026, our stock price closes above 130% of the conversion price for at least 20 out of 30 trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice.
- **Trading Price Condition:** If, during a 10-day period, the trading price of the notes falls below 98% of the product of the last reported sale price per share of our common stock on such trading day and the conversion rate on such trading day, then conversion is allowed during the five business days that follow.
- **Corporate Events:** Upon the occurrence of certain corporate events or distributions on our common stock.
- **Redemption:** If the Company calls such notes for redemption on or after December 5, 2028, then the holders may choose to convert them at that time.

Beginning September 3, 2031, the notes can be converted at any time until two trading days prior to maturity.

The initial conversion price was approximately $16.29 per share, and the Company may choose to settle conversions in stock, cash or a mix of both. The conversion price is subject to customary adjustments upon the occurrence of certain events. If a make-whole fundamental change (as defined in the November 2025 Convertible Notes Indenture) occurs, the conversion rate may temporarily increase to provide additional value. The November 2025 Convertible Notes have adjusted conversion prices based on the issuance of shares and warrants as part of the Rights Offering. As of September 30, 2026 the conversion rate is $16.16 per share.

12. Borrowings (cont.)

Redemption - The November 2025 Convertible Notes will be redeemable, in whole or in part, at the Company's option at any time, and from time to time, on or after December 5, 2028 and on or before the 41st scheduled trading day immediately before the maturity date, but only if certain liquidity conditions are satisfied and the last reported sale price per share of the Company's common stock exceeds 130% of the conversion price on (i) each of at least 20 trading days, whether or not consecutive, during the thirty consecutive trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice; and (ii) the trading day immediately before the date the Company sends such redemption notice. However, the Company may not redeem less than all of the outstanding notes unless at least $75,000 aggregate principal amount of notes are outstanding and not called for redemption as of the time the Company sends the related redemption notice. The redemption price is equivalent to the principal amount of the November 2025 Convertible Notes called for redemption, plus accrued and unpaid interest. In addition, calling any note for redemption will constitute a make-whole fundamental change with respect to that note, in which case the conversion rate applicable to the conversion of that note will be increased in certain circumstances if it is converted after it is called for redemption. Prior to obtaining shareholder approval for the issuance of common stock upon conversion, the Company will be required to settle all conversions in cash.

Embedded Derivatives - The November 2025 Convertible Notes include certain embedded features, such as provisions for fundamental change, additional interest, special interest, conversion feature and indemnification. In accordance with ASC 815, the Company assessed these embedded features to determine whether bifurcation and separate accounting as derivatives was required. The Company concluded the embedded features meet the bifurcation criteria because the economic characteristics and the risks of the embedded features are not clearly and closely related to the debt host, the host is not remeasured at fair value and the embedded features would meet the definition of a derivative if freestanding. The Company also evaluated indexation and equity classification guidance with respect to the conversion feature. Although the conversion feature is considered indexed to the Company's own stock, it did not qualify for equity classification at issuance, as prior to the first date on which the Company reserves the maximum number of convertible shares, and before shareholder approval is obtained to authorize additional shares, all conversions were required to be cash-settled, and shareholder approval to increase authorized shares was not solely within the Company's control. As a result, the conversion feature did not qualify for the derivative scope exception in ASC 815 at issuance. At issuance, the Company recognized the embedded derivative at its fair value, with an offset to debt discount. The embedded derivative was remeasured at fair value each reporting period, and changes in fair value are recognized in Change in fair value of derivatives on the Company's Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

On June 3, 2026 at the annual meeting of stockholders, the stockholders of the Company approved the amendment to the Company's Certificate of Incorporation to increase the number of shares of authorized common stock from 600,000,000 to 800,000,000. As a result of this approval, the November 2025 Convertible Notes conversion is able to be settled in the Company's own stock as of June 3, 2026. Therefore, the conversion feature qualifies for the derivative scope exception on June 3, 2026 and does not require subsequent remeasurement. The changes in fair value through June 3, 2026 for the embedded derivative are recognized in Change in fair value of derivatives on the Company's Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). The remaining carrying value of the embedded derivative on June 3, 2026 of $133,231 was reclassified to Additional paid in capital in accordance with ASC 815.

Interest expense recognized on the November 2025 Convertible Notes is as follows:

	Three Months Ended September 30,	Nine Months Ended September 30,
	2026	2026
Contractual interest expense	$ 2,625	$ 7,875
Amortization of debt discount	8,884	25,385
Amortization of debt issuance costs	10	28
Total	$ 11,519	$ 33,288

The carrying value for the November 2025 Convertible Notes is as follows:

12. Borrowings (cont.)

	September 30, 2026	December 31, 2025
Principal	$ 600,000	$ 600,000
Unamortized debt discount	(272,912)	(298,297)
Unamortized debt issuance costs	(299)	(326)
Embedded conversion feature	—	228,719
Aggregate carrying value	$ 326,789	$ 530,096

The Company is obligated to repay all contractual interest attributable to the November 2025 Convertible Notes on a semi-annual basis in cash. As of September 30, 2026 and December 31, 2025, $3,471 and $1,050, respectively, of interest payable attributable for the November 2025 Convertible Notes was included in Accrued expenses in the Unaudited Condensed Consolidated Balance Sheets.

DOE Loan Facility

On November 26, 2024, the Company entered into a loan agreement with the United States Federal Financing Bank ("FFB") and the United States DOE Loan Programs Office (“LPO”) (“the DOE Loan Facility"). The loan provides for a principal amount of up to $277,497 of borrowings and capitalized interest amount of up to $25,953.

The DOE Loan Facility provides for a multi-draw term loan facility under a series of at least two tranches and, if the Company elects, up to four tranches of the loan (each, a “Tranche”), subject to the achievement of certain funding conditions. Each Tranche corresponds to the production, maintenance, development and operation of a given production line to be funded using the proceeds of such Tranche. The principal amount of each Tranche consists of a maximum principal amount designated for such Tranche in the DOE Loan Facility. Each Tranche provides the Company funding for 80% of the Eligible Project Costs. Eligible Project Costs means project costs that satisfy each of the following conditions: (a) DOE has determined the project costs to be eligible costs in accordance with Sections 609.2 and 609.10 of the applicable regulations; (b) the project costs have not been paid and are not expected to be paid any time after the first advance date with: (i) any federal grants, assistance, or loans (excluding the DOE Loan Facility); or (ii) other funds guaranteed by the Federal Government; (c) the project costs are identified in the construction budget; (d) the project costs do not constitute cost overruns; and (e) the project costs were incurred after the eligibility effective date associated with the corresponding production line, with the Company responsible for funding the remaining 20% of the project costs.

On April 16, 2025, the Company amended the DOE Loan Facility in order to clarify the maximum Tranche Commitment principal amounts by excluding capitalized interest (Tranche 1: $90,945; Tranche 2: $106,733; Tranche 3: $67,529; and Tranche 4: $12,290). The Amendment did not materially alter rights, obligations or meaning of the DOE Loan Facility.

The DOE Loan Facility draw-downs were as follows:

Date of Draw	Gross Amount of Initial Draw	Interest Rate
Beginning balance Tranche 1	$ 90,945	
Draw-downs received November 2024	(68,279)	4.791 %
Draw-downs received July 2025	(22,666)	4.286 %
Remaining balance available on Tranche 1	$ —	

12. Borrowings (cont.)

Date of Draw	Gross Amount of Initial Draw	Interest Rate
Beginning balance Tranche 2	$ 106,733	
Draw-downs received September 2026	(87,019)	4.971 %
Remaining balance available on Tranche 2	$ 19,714	

The Company has not drawn on Tranches 3 or 4 as of September 30, 2026.

Interest expense recognized on the DOE Loan Facility is as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Contractual interest expense	$ 1,379	$ 1,088	$ 3,588	$ 2,723
Amortization of debt issuance costs	204	417	492	1,617
Amortization of debt discount	420	—	1,203	—
Total	$ 2,003	$ 1,505	$ 5,283	$ 4,340

The carrying value for the DOE Loan Facility is as follows:

	September 30, 2026	December 31, 2025
Principal (life to date draw-downs)	$ 177,964	$ 90,945
Capitalized PIK Interest	7,156	3,740
Unamortized debt issuance costs	(7,386)	(2,749)
Unamortized debt discount	(6,298)	(7,609)
Aggregate carrying value	$ 171,436	$ 84,327

The DOE Loan Facility bears interest at the applicable U.S. Treasury rate plus a spread equal to 0.375%. The interest is paid in-kind ("Capitalized PIK Interest") on a quarterly basis, in accordance with the terms under the DOE Loan Facility. Cash payment of the Capitalized PIK Interest on the DOE Loan Facility commences in 2028.

Covenants

On May 28, 2025, the Company and the DOE entered into a Limited Consent Agreement, pursuant to which among other things, the applicability of the Minimum Consolidated Revenue and Minimum Consolidated EBITDA financial covenants were deferred until March 31, 2027 and certain provisions were added to conform with comparable provisions in the Delayed Draw Term Loan. Additionally, the DOE Limited Consent Agreement requires the Company to reserve 24 months of interest expense for the May 2025 Convertible Notes. Refer to Note 4, *Cash, Cash Equivalents and Restricted Cash,* for further information.

On November 18, 2025, the Company and the DOE entered into the Second DOE Limited Consent Agreement, allowing the Company to, among other things, (i) offer common stock and new convertible unsecured senior notes, (ii) issue securities related to those offerings, (iii) issue common stock if the November 2025 Convertible Notes are converted, (iv) make cash payments on the November 2025 Convertible Notes and (v) confirm that the November 2025 Convertible Notes count as permitted indebtedness under the DOE Loan Facility.

Under the Second DOE Limited Consent Agreement, following the issuance of the November 2025 Convertible Notes, the Company must maintain adequate cash reserves to cover all interest payments due on both the May 2025 Convertible Notes and November 2025 Convertible Notes for a period of 18 months. This reserve will decrease as interest payments are made, but shall not be less than all interest payments on the May 2025 Convertible Notes and

12. Borrowings (cont.)

the November 2025 Convertible Notes due within 12 months. Refer to Note 4, *Cash, Cash Equivalents and Restricted Cash,* for further information.

On June 29, 2026, the Company and the DOE entered into the third Limited Consent Agreement (the "Third DOE Limited Consent Agreement") which, among other things, provided the DOE's consent to (1) the offering of common stock by the Company, together with any increase thereto pursuant to customary offering mechanics, (2) the issuance of securities in connection with such offering, (3) the issuance of warrants, (4) the issuance of any common stock upon exercise of such warrants or the exercise of exchange rights, (5) the use of proceeds from the offerings towards the transactions regarding the establishment of the FPUSA Joint Venture, and (6) the Company's entry into the documentation necessary to effect the foregoing.

On August 4, 2026, the Company entered into the Third Amendment to Loan Guarantee Agreement with the DOE (the "Third Amendment to DOE Loan Facility"). The Third Amendment to DOE Loan Facility provides for the following (i) permitting investments into FPUSA or its affiliates and entry into (a) above-referenced limited liability agreement of FPUSA, (b) above-referenced contribution agreement entered with FPUSA by the Company, (c) the purchase commitment and capacity reservation agreement by and between FPUSA and Company, (d) the FPUSA commercial framework guidelines by and between FPUSA and Company and (e) certain master supply agreements, purchase orders, long-term services agreements and/or related documentation and agreements, each in accordance with the revised DOE Loan Facility agreement, (ii) permitting certain indebtedness in connection with FPUSA, and (iii) other related conditions and requirements, including those related to know-your-customer checks and liens with respect to FPUSA.

The DOE Loan facility, as amended, contains a Minimum Liquidity financial covenant, (as defined in the DOE Loan facility). As of September 30, 2026, the Company was in compliance with the Minimum Liquidity financial covenant.

In addition, the DOE Loan Facility contains certain representations and warranties customary for the facilities extended under the DOE Loan Facility, including, among other things, representations and warranties regarding: (i) the organization and existence of the Company, (ii) authority and the absence of any conflicts, (iii) capitalization, (iv) solvency and (v) compliance with applicable law and the DOE Loan Program.

Maturity - The Maturity Date is defined as the earlier of (i) June 15, 2034, and (ii) the date that all the loans shall become due and payable in full, whether by acceleration or otherwise; provided that, if on any Springing Maturity Date any Convertible Notes remain outstanding, the Maturity Date shall instead be the Springing Maturity. The Springing Maturity Date is defined as the 91st day prior to the Convertible Note Maturity. As of September 30, 2026, the May 2025 Convertible Notes and November 2025 Convertible Notes, remain outstanding and are scheduled to mature on June 15, 2030 and December 1, 2031, respectively.

13. Warrants Liability

The amount of warrants outstanding and fair value for all warrants as of September 30, 2026 and December 31, 2025 are as follows:

		September 30, 2026		December 31, 2025	
	Exercise Price	Number of Warrants Outstanding	Fair Value	Number of Warrants Outstanding	Fair Value
Warrants liability					
April 2023 warrants	$3.14	16,000,000	$ 28,641	16,000,000	$ 153,440
May 2023 warrants	$2.50	3,601,980	6,663	3,601,980	35,263
December 2023 warrants	$1.60	9,960,566	22,312	12,010,566	124,550
Total		29,562,546	$ 57,616	31,612,546	$ 313,253
Warrants liability - related party					
SPA Warrant	$0.01	1	$ 135,750	1	$ 470,715
Total		1	$ 135,750	1	$ 470,715

The change in fair value for April 2023 Warrants, May 2023 Warrants and December 2023 Warrants have been recognized in Change in fair value of warrants on the Company's Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). The fair value for these warrants is included in Warrants liability on the Unaudited Condensed Consolidated Balance Sheets. The change in fair value for the SPA Warrant has been recognized in Change in fair value of derivatives - related parties on the Company's Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). The fair value for these warrants is included in Warrants liability - related party on the Unaudited Condensed Consolidated Balance Sheets. See Note 14, *Fair Value Measurement,* for further information.

Warrants liability

In April 2023, the Company issued 16,000,000 shares of common stock and 16,000,000 private placement warrants to purchase shares of common stock. In May 2023, the Company issued another 3,601,980 shares of common stock and 3,601,980 private placement warrants to purchase shares of common stock (the "April 2023 warrants" and "May 2023 warrants", respectively).

In December 2023, the Company issued in a combined public offering 34,482,759 shares of common stock and 34,482,759 accompanying common warrants to purchase shares of common stock (the "December 2023 warrants"). For the three and nine months ended September 30, 2026, — and 2,050,000, respectively of the December 2023 warrants were exercised. For the three and nine months ended September 30, 2025, 3,991,154 and 8,884,256 of the December 2023 warrants were exercised, respectively.

The 2023 warrants do not qualify for equity classification guidance in ASC 815-40 and are measured at fair value at each reporting period.

13. Warrants Liability (cont.)

Warrants liability - related party

SPA Warrant

On June 21, 2024, the Company entered into a Securities Purchase Agreement with CCM Denali Equity Holdings, LP (the "Purchaser"). The Company issued to the Purchaser, one warrant to purchase 43,276,194 shares of common stock. The warrant has a ten-year term, $0.01 per share exercise price, and is exercisable at the Purchaser's discretion for cash or on a cashless basis. On August 4, 2026, in connection with the funding of FPUSA, the number of common shares issuable upon exercise of the SPA Warrant increased by 1,159,110 to 44,435,304 common shares upon exercise. The SPA Warrant is subject to automatic cashless exercise on the expiration date if the fair market value of one share is greater than the exercise price then in effect. Upon an acceleration under the Credit Agreement, the Company may be required to purchase the SPA Warrant from the holder at an amount equal to the closing sale price of underlying common stock less the SPA Warrant exercise price at the request of the holder. The SPA Warrant meets the criteria for liability classification under ASC 480 and is recognized at fair value with changes in fair value included in Change in fair value of derivatives - related parties in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

Contingent Warrants

Following the initial draw of the DDTL, on three separate predetermined draw dates upon the achievement of the corresponding performance milestone for each such draw date, the Company received additional funds under the Credit Agreement and issued securities under the SPA in an amount equal to the applicable percentage, up to an aggregate of 33.0% ownership limitation on a fully diluted basis as of the time the DDTL was fully drawn. Although these contingent warrants were not issued or exercisable until additional draws occurred, they met the guidance under ASC 480 and were recognized at fair value with changes in fair value reported in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). The Company has achieved all performance milestones and no Contingent Warrants remain outstanding.

14. Fair Value Measurement

Accounting standards establish a hierarchy, which prioritizes the inputs used to measure fair value into three levels and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement:

Level 1 - Quoted prices in active markets for identical assets or liabilities.

Level 2 - Observable inputs other than quoted prices in active markets for identical assets and liabilities, quoted prices for identical or similar assets or liabilities in inactive markets, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 - Inputs that are generally unobservable and typically reflect management's estimate of assumptions that market participants would use in pricing the asset or liability.

The carrying value of cash and cash equivalents, restricted cash, accounts receivable, contract assets, contract liabilities, accounts payable and DOE Loan Facility are considered to be representative of their fair value.

14. Fair Value Measurement (cont.)

The following tables set forth the Company's financial liabilities measured at fair values based on the fair value hierarchy, as described above. These should also be read with Note 2, *Summary of Significant Accounting Policies*, in the Company's Annual Report on Form 10-K for the year ended December 31, 2025.

	September 30, 2026			December 31, 2025		
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
Liabilities						
SPA Warrant [(a)]	$ —	$ —	$ 135,750	$ —	$ —	$ 470,715
April, May and December 2023 Warrants	—	—	57,616	—	—	313,253
Delayed Draw Term Loan	—	—	109,210	—	—	150,427
Exchange Right/Call Option[(c)]	—	—	22,700	—	—	—
Embedded derivatives[(b)]	—	—	—	—	—	228,719
Total liabilities	$ —	$ —	$ 325,276	$ —	$ —	$ 1,163,114

(a) Included in Warrants liability - Related party on the Unaudited Condensed Consolidated Balance Sheets as of September 30, 2026 and December 31, 2025.
(b) Included in Notes Payable - Related Party on the Unaudited Condensed Consolidated Balance Sheets as of September 30, 2026 and December 31, 2025.
(c) Included in Other liabilities - Related Party on the Unaudited Condensed Consolidated Balance Sheets as of September 30, 2026.

April 2023 warrants, May 2023 warrants and December 2023 warrants

The April 2023 warrants, May 2023 warrants and December 2023 warrants all are valued using the Black-Scholes model at inception and on subsequent valuation dates. This model incorporates inputs such as the stock price of the Company, risk-free interest rate, volatility and time to expiration. The volatility is a significant unobservable input classified as Level 3 of the fair value hierarchy.

The inputs used to determine the fair value of the April 2023 warrants, May 2023 warrants and the December 2023 warrants are as follows:

14. Fair Value Measurement (cont.)

April 2023 warrants	**September 30, 2026**	**December 31, 2025**
Time to expiration	2.04 years	2.79 Years
Common stock price	$ 3.07	$ 11.46
Risk-free interest rate	4.8 %	3.5 %
Volatility	110.0 %	105.0 %

May 2023 warrants	**September 30, 2026**	**December 31, 2025**
Time to expiration	1.79 Years	2.54 Years
Common stock price	$ 3.07	$ 11.46
Risk-free interest rate	4.8 %	3.5 %
Volatility	110.0 %	105.0 %

December 2023 warrants	**September 30, 2026**	**December 31, 2025**
Time to expiration	2.21 Years	2.96 Years
Common stock price	$ 3.07	$ 11.46
Risk-free interest rate	4.8 %	3.5 %
Volatility	110.0 %	105.0 %

Embedded derivatives

The Company estimated the fair value of the embedded conversion features in the November 2025 Convertible Note using a binomial lattice model at inception and on subsequent valuation dates. This model incorporates inputs such as the stock price of the Company, dividend yield, risk-free interest rate, the effective debt yield and expected volatility. The effective debt yield and volatility involve unobservable inputs classified as Level 3 of the fair value hierarchy.

The November 2025 Convertible Notes conversion is able to be settled in the Company's own stock as of June 3, 2026, as such there is no embedded derivative liability at September 30, 2026.

The inputs used to determine the fair value of the embedded derivative liabilities are as follows:

November 2025 Convertible Note	**June 3, 2026**	**December 31, 2025**
Term	5.50 Years	5.92 Years
Dividend yield	— %	— %
Risk-free interest rate	4.2 %	3.8 %
Volatility	60.0 %	60.0 %
Effective debt yield	11.1 %	11.7 %

Contingently Issuable Securities

On June 30, 2026, the Company entered into a Securities Purchase Agreement (the "HBMF SPA") with Hudson Bay Master Fund Ltd. ("HBMF") in connection with its registered direct offering (the "Registered Direct Offering"), the proceeds from which were to be used to partially fund the Company's capital contribution to the FPUSA joint venture. As the arrangement was legally binding as of June 30, 2026, and HBMF had a unilateral termination right, the securities to be issued were recognized at fair value and an expense of $35,662 was included within Loss on contingently issuable securities within the Consolidated Statement of Operations and Comprehensive Income (Loss). On July 21, 2026 the Rights Offering expired, as such there are no Contingently Issuable Securities at September 30, 2026. Refer to Note 18, *Shareholders' Deficit,* for further discussion.

14. Fair Value Measurement (cont.)

The following inputs were used in the Monte Carlo simulation to determine the fair value of the contingently issuable securities:

Contingently Issuable Securities	July 21, 2026	June 30, 2026
Time to expiration	10.0 Years	10.0 Years
Common stock price	$ 4.24	$ 5.88
Risk-free interest rate	4.6 %	4.4 %
Volatility	120.0 %	115.0 %

Exchange Right/Call Option

In connection with the closing of the funding of FPUSA, on August 4, 2026, FPUSA, the Company, CCM Frontier JV Holdco, LLC ("CCM Frontier") and HBC MSF Capital Solutions Blocker II LLC ("HBC") entered into an Amended and Restated Limited Liability Company Agreement of FPUSA. In addition, on August 4, 2026, (i) the Company, FPUSA and HBC entered into an Exchange Agreement, which, among other things, provides HBC with the right, from time to time, to exchange Class C Units in FPUSA that it holds for shares of common stock of the Company ("HBC Exchange Right") and (ii) FPUSA, CCM Frontier and the Company entered into a letter agreement, which, among other things, provides that if HBC exercises its exchange right, 10% of the Class C Units in FPUSA that the Company receives in the exchange are cancelled and reissued by FPUSA to CCM Frontier and CCM Frontier will have the right to purchase up to the remaining 90% of such Class C Units from the Company at a price of $1.00 per Class C Unit ("CCM Call Option"). The HBC Exchange Right and CCM Call Option do not qualify for equity classification guidance in ASC 815-40 and are measured at fair value at each reporting period.

The Company estimated the fair value of the HBC Exchange Right and CCM Call Option using a Monte Carlo model at inception and on subsequent valuation dates. This model incorporates inputs such as FPUSA equity value, stock price of the Company, FPUSA equity volatility, the Company's expected volatility and risk-free interest rate. The estimated fair value is simulated assuming a Geometric Brownian Motion ("GBM") in a risk-neutral framework. The FPUSA equity value, FPUSA equity volatility and the Company's expected volatility involve unobservable inputs classified as Level 3 of the fair value hierarchy.

HBC Exchange Right/CCM Call Option	September 30, 2026	August 4, 2026
FPUSA Equity Value	$ 850,000	$ 850,000
Term	6.84 Years	7.00 Years
Eos Stock Price	$ 3.07	$ 4.35
FPUSA Equity Volatility	80 %	80 %
Eos Stock Volatility	115 %	120 %
Risk-free Rate	5.12 %	4.42 %

Quantitative information about all significant unobservable inputs used in the fair value measurement for recurring level 3 measurements:

The fair value of each draw of the Delayed Draw Term Loan was estimated using a discounted cash flow ("DCF") method, based on the contractual cash flows discounted at a debt yield and considering the probability of achieving certain milestones.

The fair value for the SPA warrant is estimated based on its intrinsic value, using the Company common stock closing price adjusted by a discount for lack of marketability ("DLOM"), less the exercise price of $0.01 for the SPA Warrant. A DLOM was applied at December 31, 2025 considering the SPA Warrants were unregistered.

14. Fair Value Measurement (cont.)

Delayed Draw Term Loan	September 30, 2026	December 31, 2025
Debt yield	19.2 %	11.9 %

SPA Warrant	September 30, 2026	December 31, 2025
Discount for lack of marketability	— %	5.0 %

Level 3 Rollforward for Liabilities Measured at Fair Value on a Recurring Basis

The following table summarizes the changes in the fair value of liabilities that are included within the Company's accompanying Unaudited Condensed Consolidated Balance Sheets and are designated as Level 3:

14. Fair Value Measurement (cont.)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Delayed Draw Term Loan				
Balance at beginning of the period	$ 163,283	$ 61,705	$ 150,427	$ 76,188
Additions - January Draw	—	—	—	17,312
Prepayment of the Term Loan	—	—	—	(28,582)
Change in fair value of Term Loan	(54,073)	21,353	(41,217)	18,140
Balance at end of the period	$ 109,210	$ 83,058	$ 109,210	$ 83,058
SPA Warrant and Contingent Warrants				
Balance at beginning of the period	$ 254,031	$ 198,984	$ 470,715	$ 266,630
Conversion to preferred stock	—	—	—	(102,185)
Change in fair value of warrants	(118,281)	268,853	(334,965)	303,392
Balance at end of the period	$ 135,750	$ 467,837	$ 135,750	$ 467,837
April, May and December 2023 Warrants				
Balance at beginning of the period	$ 135,362	$ 181,093	$ 313,253	$ 189,322
Exercised warrants	—	(18,827)	(31,751)	(39,166)
Change in fair value of warrants	(77,746)	240,533	(223,886)	252,643
Balance at end of the period	$ 57,616	$ 402,799	$ 57,616	$ 402,799
Embedded Derivatives				
Balance at beginning of the period	$ —	$ 51,639	$ 228,719	$ 44,396
Extinguishment of the 2021 Convertible Notes embedded derivatives	—	—	—	(87)
Extinguishment of the AFG Convertible Notes embedded derivatives	—	(79,587)	—	(79,587)
Reclassification of November 2025 Convertible Note embedded derivative	—	—	(133,231)	—
Change in fair value of derivatives	—	58,988	(95,488)	66,318
Balance at end of the period	$ —	$ 31,040	$ —	$ 31,040
HBC Exchange Right/CCM Call Option				
Balance at beginning of the period	$ —	$ —	$ —	$ —
Initial Measurement	33,970	—	33,970	—
Change in fair value of derivatives - related party	(11,270)	—	(11,270)	—
Balance at end of the period	$ 22,700	$ —	$ 22,700	$ —
Contingently Issuable Securities				
Balance at beginning of the period	$ 35,662	$ —	$ —	$ —
Loss on contingently issuable securities	—	—	35,662	—
Change in fair value of Contingently Issuable Securities	$ (13,222)	$ —	$ (13,222)	$ —
Reclassification to equity(a)	$ (22,440)	$ —	$ (22,440)	$ —
Balance at end of the period	$ —	$ —	$ —	$ —

14. Fair Value Measurement (cont.)

(a) On July 1, 2026 the reclassification to equity was settled via issuance of common stock in the amount of $944. On July 21, 2026 the remaining liability of $21,496 was reclassified to equity upon expiration of the Rights Offering. Refer to Note 18, *Shareholders' Deficit,* for further discussion.

The estimated fair value of financial instruments not carried at fair value in the Unaudited Condensed Consolidated Balance Sheets was as follows:

	Level in fair value hierarchy	September 30, 2026		December 31, 2025	
		Carrying Value	Fair Value	Carrying Value	Fair Value
May 2025 Convertible Notes	3	$ 48,322	$ 50,775	$ 48,044	$ 123,000
November 2025 Convertible Notes*	3	326,789	298,238	530,096	586,237
Equipment financing facility	3	—	—	372	375
Preferred Stock	3	463,746	467,570	1,361,542	1,292,216
DOE Loan Facility	3	171,436	179,720	84,327	95,427
Total		$ 1,010,293	$ 996,303	$ 2,024,381	$ 2,097,255

*Includes the embedded derivative liabilities for December 31, 2025.

15. Commitments and Contingencies

In February 2026, the U.S. Supreme Court issued a ruling invalidating certain tariffs previously imposed under the International Emergency Economic Powers Act ("IEEPA"). On March 4, 2026 the U.S. Court of International Trade directed the U.S. Customs and Border Protection ("CBP") to refund amounts previously collected, including applicable interest. CBP developed and implemented a process to facilitate refunds through the Consolidated Administration and Processing of Entries ("CAPE") functionality within its Automated Commercial Environment system ("ACE"), with the first phase of the process becoming available on April 20, 2026.

As of September 30, 2026, the Company has received all refunds related to tariffs previously paid under IEEPA, including applicable interest, and there are no remaining IEEPA-related refund claims pending review by CBP.

Legal Proceedings

Securities Class Action

On March 6, 2026, a class action lawsuit (the "Yung Complaint") was filed in the United States District Court for the District of New Jersey by plaintiff Shui Shing Yung ("Plaintiff") against the Company and two individual officers: the Company's Chief Executive Officer and its then-acting Chief Financial Officer (with the Company, the "Yung Defendants"). The Yung Complaint alleges that the Yung Defendants violated federal securities laws by making knowingly false or misleading statements about the Company's manufacturing capabilities and financial outlook. The Yung Complaint seeks compensatory damages for Plaintiff and the other members of the putative class, including interest thereon and attorney's fees. Several alleged stockholders have filed motions seeking appointment by the Court as lead plaintiff; those motions are pending. The Company intends to vigorously contest this matter.

Shareholder Derivative Action

On March 13, 2026, a shareholder derivative lawsuit (the "Berger Complaint") was filed in the United States District Court for the District of New Jersey by plaintiff Paul Berger against certain defendants including the Company's Chief Executive Officer, the Company's then-acting Chief Financial Officer, and nine of the Company's then-current Directors (the "Berger Defendants"). The Berger Complaint alleges that the Berger Defendants breached their fiduciary duties to the Company by allowing the Company to make knowingly false or misleading statements about the Company's manufacturing capabilities and financial outlook. The Berger Complaint seeks declaratory relief, unspecified corporate governance reforms, and compensatory damages, including interest thereon and attorney's fees.

On March 25, 2026, a shareholder derivative lawsuit (the "Skaff Complaint") was filed in the United States District Court for the District of New Jersey by plaintiff Ronald F. Skaff against certain defendants including the Company's Chief Executive Officer, the Company's then-acting Chief Financial Officer, and nine of the Company's then-

15. Commitments and Contingencies (cont.)

current Directors (the "Skaff Defendants"). The Skaff Complaint alleges that the Skaff Defendants breached their fiduciary duties to the Company by allowing the Company to make knowingly false or misleading statements about the Company's manufacturing capabilities and financial outlook. The Skaff Complaint seeks declaratory relief, unspecified corporate governance reforms, and compensatory damages, including interest thereon and attorney's fees.

On May 13, 2026, the Berger Complaint and the Skaff Complaint were consolidated into a single action (the "Consolidated Derivative Action"). The Consolidated Derivative Action was then stayed pending resolution of the Yung Complaint, including appeals therefrom. The Company intends to vigorously contest this matter.

16. Stock-Based Compensation

Stock-based compensation expense included in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss) was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Restricted stock units	$ 6,300	$ 4,134	$ 17,090	$ 13,479
Performance-based restricted stock units	642	829	1,937	6,185
Total	$ 6,942	$ 4,963	$ 19,027	$ 19,664

The stock compensation expense has been recorded in cost of goods sold, research and development expenses and selling, general and administrative expenses.

Restricted Stock Units ("RSU")

Eligible employees are granted restricted stock that generally vest over three years from the date of grant. Under the directors plan, restricted stock generally vest one year from the date of grant. As of September 30, 2026, there was $41,203 of unrecognized compensation expense attributable to unvested RSUs, expected to be recognized over a weighted-average remaining vesting period of 2.2 years.

Performance-Based Restricted Stock Units ("PRSU")

During the third quarter of 2024, the Company granted contingent shares to select key executives that may be earned based on the Company's total shareholder return ("TSR") over a two and three-year period following the grant date ("2024 TSR Awards"). During the second quarter of 2025, the Company granted contingent shares to select key employees that may be earned based on the Company's TSR over three individual one-year periods and a cumulative three-year period following the grant date ("2025 TSR Awards"). During the third quarter of 2026, the Company also granted contingent shares to select key employees that may be earned based on the Company's TSR over three individual one-year periods and a cumulative three-year period following the grant date ("2026 TSR Awards").

TSR awards are paid out in stock at the end of the vesting period based on the Company's stock performance. The performance of the 2024 TSR Awards and 2025 TSR Awards is measured by determining the percentile rank of the total shareholder return of the Company's common stock relative to the TSR of the Russell 2000 index peer group. This peer group includes the entire Russell 2000 index as it existed at the beginning of the performance period, excluding any companies that were removed from the index during the performance period.

The performance of the 2026 TSR Awards is measured by determining the percentile rank of the total shareholder return of the Company's common stock relative to the TSR of the CIBC Atlas Clean Energy Index, focusing on the U.S. companies. This peer group includes all of the US companies in the CIBC Atlas Clean Energy Index as it existed at the beginning of the performance period, excluding any companies that were removed from the index during the performance period.

16. Stock-Based Compensation (cont.)

The payment of awards is based on performance achieved in accordance with the scale set forth in the plan agreement and may range from 0% to 200% of the initial grant. The fair value of the TSR awards is estimated using a Monte Carlo simulation in an option pricing framework.

Estimation of the 2026 TSR Awards is done on a correlated basis, incorporating the pairwise correlations between the Company and the peer group companies. The following summarizes the key assumptions used to estimate the fair value of the 2026 TSR Awards that were granted, and the resulting weighted average grant date fair value.

	2026 TSR Awards
Company share price	$ 3.46
Company volatility	120.0 %
Company dividend yield	— %
Weighted average performance term	2.2 Years
Weighted average risk-free interest rate	4.2 %
Peer group average volatility	75.2 %
Weighted average grant date fair value	$ 4.95

As of September 30, 2026, there was $10,181 of unrecognized compensation expense attributable to unvested PRSUs, expected to be recognized over a weighted-average remaining vesting period of 2.4 years.

17. Income Taxes

Income tax expense was $1,462 and $1,480 for the three and nine months ended September 30, 2026, respectively, attributable to earnings from foreign operations and income tax expense recognized from the Company’s outside basis difference in the ownership interest in FPUSA. Income tax expense was $4 and $15 for the three and nine months ended September 30, 2025, respectively, related to taxable earnings from foreign operations.

The income tax expense differs from the amount computed by applying the statutory U.S. federal income tax rate of 21% to the loss before income taxes. This is attributable to fair value adjustments - derivatives and warrants, Section 162(m) disallowance, foreign operations and pre-tax losses for which no tax benefit can be recognized for U.S. income tax purposes.

The Company estimates and applies the annual effective tax rate to its ordinary earnings each interim period. Any significant unusual or infrequent items are not included in the estimation of the annual effective tax rate; instead, these items and their related income tax expense are separately stated in the interim period in which they occur.

At each balance sheet date, management assesses the likelihood that the Company will realize its deferred tax assets by considering all available positive and negative evidence. Realization of deferred tax assets depends on the generation of sufficient taxable income of the appropriate character and in the appropriate taxing jurisdiction during the periods in which the related temporary differences become deductible. In evaluating the realizability of its deferred tax assets as of September 30, 2026 and December 31, 2025, management considered cumulative losses, the scheduled reversal of deferred tax liabilities, projected future taxable income, and available tax-planning strategies. Based on this assessment, management determined that it is more likely than not that the Company will not realize its U.S. deferred tax assets and therefore maintained a valuation allowance against its net U.S. deferred tax assets. During the three and nine months ended September 30, 2026, however, the Company released a portion of its valuation allowance related to deferred tax assets attributable to existing net operating losses, resulting in income tax expense of $1,438. The release was attributable to the Company's outside basis difference in its ownership interest in FPUSA, which provided a source of taxable income supporting realization of the related deferred tax assets.

As of September 30, 2026 and December 31, 2025, the Company has unrecognized tax benefits associated with uncertain tax positions that, if recognized, would not affect the effective tax rate on income from continuing operations. The Company is currently under examination by the IRS related to tax year 2022. The Company is not under examination by any other taxing jurisdictions.

17. Income Taxes (cont.)

The Company files income tax returns in U.S. federal and various state jurisdictions, as well as in Italy and India. The open tax years for federal returns are 2022 and forward, and open tax years for state returns are generally 2020 and forward. In addition, net operating losses generated in closed years and utilized in open years are subject to adjustment by the tax authorities.

18. Shareholders' Deficit

Preferred Stock

The Company is authorized to issue 1,000,000 shares of preferred stock with such designations, voting and other rights and preferences as may be determined from time to time by the Company's Board of Directors. The preferred stock has a par value of $0.0001. As of September 30, 2026 and December 31, 2025, there were no shares of preferred stock issued or outstanding.

Common Stock

On June 3, 2026 at the annual meeting of stockholders, stockholders of the Company approved the amendment to the Company's Certificate of Incorporation to increase the number of shares of authorized common stock from 600,000,000 to 800,000,000 at $0.0001 par value . The holders of the Company's common stock are entitled to one vote for each share held. At September 30, 2026 and December 31, 2025, there were 365,758,222 and 337,132,374, shares of common stock issued and outstanding, respectively.

Registered Direct Offering

On July 1, 2026, the Company closed its Registered Direct Offering pursuant to which it issued 13,683,634 shares of common stock and 6,004,378 warrants, each warrant exercisable for one share of common stock at an exercise price of $5.481 per share, to HBMF. The Company received aggregate net proceeds from the Registered Direct Offering of approximately $74,900. The warrants issued for the Registered Direct Offering were liability classified on June 30, 2026 as the HBMF SPA included a most favored nation provision that could result in an adjustment to the settlement amount of the warrants. An adjustment would be recognized if equity was issued at a more economically favorable terms or conditions.The warrants issued in the Registered Direct Offering meet the requirements for equity classification guidance in ASC 815-40.

Rights Offering

On July 2, 2026, the Company announced the launch of the rights offering (the "Rights Offering"), under which shareholders of Eos common stock and holders of its warrants to purchase common stock issued on April 14, 2023, May 17, 2023, December 19, 2023, and November 21, 2025 as of the record date of 5:00 p.m. Eastern time on July 1, 2026 (collectively, "Eligible Holders"), would receive rights to acquire a certain number of units, comprised of the Company's common stock and warrants (the "Units") to fund the Company's previously announced capital contribution in the FPUSA joint venture. The Company recognized $2,264 in Additional paid in capital and reduction of Accumulated deficit related to the bonus element arising from the rights' exercise price being below the fair value of the Units. This was a pro rata distribution to equity holders of the Company's securities and recognized as a dividend.

The Rights Offering expired at 5:00 p.m. Eastern Time on July 21, 2026 (the "Expiration Date"). Upon expiration of the Rights Offering, the most favored nation provision included within the HBMF SPA expired on the Expiration Date. As such, the liability required remeasurement through the Expiration Date, the Company recognized within the Change in fair value of derivatives on the Company's Consolidated Statements of Operations and Comprehensive Income (Loss) a $13,222 gain for the three month period ended September 30, 2026. On the Expiration Date, the Company reclassified $21,496 into Additional paid in capital as the warrants meet equity classification under ASC 815.

On August 3, 2026, the Company closed the Rights Offering pursuant to which the Company issued 6,885,218 Units which separated upon closing and were issued separately as 6,885,218 shares of common stock and 3,019,242 warrants, each warrant exercisable for one share of common stock at an exercise price of $5.481 per share. The

18. Shareholders' Deficit (cont.)

Company received aggregate gross proceeds from the Rights Offering of approximately $37,738. The warrants issued in the Rights Offering meet the requirements for equity classification guidance in ASC 815-40.

DOE Warrants

The Company issued 570,000 warrants to the DOE in November 2025 to purchase shares of common stock at a price of $0.01 per share (the "DOE Warrants"). The DOE Warrants meet the requirements for equity classification guidance in ASC 815-40. The DOE Warrants are scheduled to expire November 21, 2030. There were 570,000 DOE Warrants outstanding as of September 30, 2026 and December 31, 2025.

HBC & CCM Warrants

On August 3, 2026, the Company entered into a warrant agreement (the "Warrant Agreement") with Continental Stock Transfer & Trust Company governing the terms of certain warrants issued in connection with the FPUSA funding.

In consideration for the Initial Class A-2 Contribution, the Company issued, directly or indirectly, to CCM Frontier 20,017,772 warrants (the "CCM Warrants"). In consideration for the Initial Class C Contribution, the Company issued, directly or indirectly, to HBC 10,008,886 warrants (the "HBC Warrants" and, together with the CCM Warrants, the "HBC & CCM Warrants"). Each HBC & CCM Warrant is exercisable for one share of the Company's common stock at an exercise price of $5.481 per share.

The HBC & CCM Warrants became exercisable upon issuance and remain exercisable until the tenth anniversary of the issuance date, unless earlier exercised or redeemed in accordance with their terms. The HBC & CCM Warrants may be exercised for cash or on a cashless basis, subject to the provisions of the Warrant Agreement.

The holders of the HBC & CCM Warrants do not possess the rights of a stockholder, including voting rights, with respect to the shares underlying the HBC & CCM Warrants until such HBC & CCM Warrants are exercised and shares of common stock are issued. Following exercise, the holders are entitled to the rights of stockholders with respect to the shares issued upon exercise.

The HBC & CCM Warrants meet the requirements for equity classification guidance in ASC 815-40.

Treasury Stock

The Company recorded treasury stock of $1,188 and $2,269 for the three and nine months ended September 30, 2026, respectively, for shares withheld from employees to cover options exercise costs and payroll tax liabilities. The treasury stock was immediately retired.

The Company recorded treasury stock of $0 and $488 for the three and nine months ended September 30, 2025, respectively, for shares withheld from employees to cover the payroll tax liability of RSUs vested. The treasury stock was immediately retired.

19. Redeemable Preferred Stock

Series B Preferred Stock

Each Series B Preferred Stock has a par value of $0.0001 per share. The table below summarizes the Company's outstanding Series B Preferred Stock as of September 30, 2026 and December 31, 2025.

19. Redeemable Preferred Stock (cont.)

Preferred Stock	Issuance Date	Shares Issued	Original Issue Price	Shares Outstanding	Common Stock Equivalent
Series B-1 Preferred Stock	9/12/2024	31.940063	$ 841,999.99	31.940063	36,067,246
Series B-2 Preferred Stock	9/12/2024	28.806463	$ 2,322,000	28.806463	32,528,734
Series B-3 Preferred Stock	11/1/2024	38.259864	$ 3,358,000	38.259864	43,203,670
Series B-4 Preferred Stock	1/24/2025	16.150528	$ 5,990,000	16.150528	19,595,032

Conversion rights: The Series B-1, B-2 and B-3 Preferred Stock is convertible into common stock at a conversion ratio of 1,129,217 shares of common stock per share of Series B Preferred Stock, and the Series B-4 Preferred Stock Preferred Stock is convertible into common stock at a conversion ratio of 1,213,276 shares of common stock per share of Series B Preferred Stock ("Conversion Ratio"). The Conversion Ratio is subject to antidilution protection that is triggered if the Company issues equity for a price per share that is less than the conversion price then in effect, subject to certain exceptions.

During the second quarter of 2025, the Company's issuance of the May 2025 Convertible Notes and common stock through the public offering triggered an adjustment to the Series B-4 Preferred Stock liquidation value under the terms of the Securities Purchase Agreement. The number of common shares issuable upon conversion of the Series B-4 increased by 1,154,542 to 17,305,070. The Company recorded a down round deemed dividend of $4,456 increasing Additional paid-in capital and Accumulated deficit on the Consolidated Statements of Shareholders' Deficit.

During the third quarter of 2026, the Registered Direct Offering, Rights Offering, issuance of warrants and related exchange arrangements triggered anti-dilution adjustments to the conversion ratio of the Company's Series B-1, B-2, B-3 and B-4 Preferred Stock, under the terms of the Securities Purchase Agreement. As a result, the number of common shares issuable upon conversion increased by 4,127,183, 3,722,271, 4,943,806 and 2,289,962 shares for the Series B-1, B-2, B-3 and B-4 Preferred Stock, respectively resulting in the number of common shares issuable upon conversion of the Series B-1, B-2, B-3 and B-4 to be 36,067,246, 32,528,734, 43,203,670 and 19,595,032, respectively. The Company recorded aggregate down-round deemed dividends of approximately $13,802 increasing Additional paid-in capital and Accumulated deficit on the Consolidated Statements of Shareholders' Deficit.

Dividends: Holders of the Series B Preferred Stock are entitled to receive dividends or distributions on each share of Series B Preferred Stock equal to dividends or distributions actually paid on each share of common stock on an as-converted basis.

Appointment of Directors: At all times when the holders of the Preferred Stock beneficially own at least 10%, 15% or 30% of the capital stock of the Company, the Preferred Stock shareholders, exclusively and voting together as a separate class, will have the right to appoint a maximum of 1, 2 or 3 Directors to the Board of Directors of the Company (the "Board"), respectively. At all times when the holders of the Preferred Stock beneficially own at least 40% of the capital stock of the Company, the Preferred Stock shareholders, exclusively and voting together as a separate class, will have the right to nominate a fourth director, who shall be nominated by the Board or the nominating committee of the Board to a class of common directors and thereafter stand for election as a common director on the Board. The Preferred Stock shareholders will have the right to nominate a fourth director to the Board only if such appointment does not result in a change of control under any Company governing documents or violate any applicable laws, including requirements of the SEC and Nasdaq and any such fourth director appointment shall be subject to and conditioned upon compliance by the holders of the Preferred Stock with the Hart-Scott-Rodino Antitrust Improvements Act of 1976, including the submission of any required filings and the expiration or termination of any applicable waiting periods.

Preemptive rights: The Series B Certificates of Designation contain customary preemptive rights that permit the Holders of Series B Preferred Stock to participate in certain future equity offerings by the Company.

Rights to distributions upon liquidation of the Company: In the event of a voluntary or involuntary liquidation, dissolution, or winding up of the Company, the holders of the Series B Preferred Stock are entitled to receive

19. Redeemable Preferred Stock (cont.)

distribution of any of the assets or surplus funds of the Company pro rata with the holders of the common stock and any other holders of the preferred stock of the Company issued pursuant to the SPA and the Credit Agreement (the "Investor Preferred Stock"), including the Series B Preferred Stock, in an amount equal to such amount per share as would have been payable had all shares of Series B Preferred Stock been converted to common stock.

Protective provisions: The Company is prohibited from taking certain actions that could adversely affect the rights of the Preferred Stock without the affirmative vote of a majority of the outstanding shares of Preferred Stock until the later of (i) such time when the holders of Investor Preferred Stock shall no longer beneficially own at least 5% of the outstanding capital stock of the Corporation and (ii) June 21, 2029, in the case of the Series B-1 Preferred Stock, August 29, 2029, in the case of the Series B-2 Preferred Stock, November 1, 2029 in the case of the Series B-3 Preferred Stock or January 24, 2030 in the case of Series B-4 Preferred Stock.

Redemption Rights: At any time after June 21, 2029, in the case of the Series B-1 Preferred Stock, August 29, 2029, in the case of the Series B-2 Preferred Stock, November 1, 2029 in the case of the Series B-3 Preferred Stock or January 24, 2030 in the case of Series B-4 Preferred Stock, the outstanding shares of Series B Preferred Stock held by any holder become redeemable for cash at the redemption price. The redemption price will be an amount per share equal to the greater of (i) the B-1 Original Issue Price, the B-2 Original Issue Price, the B-3 Original Issue Price or the Series B-4 Preferred Stock Original Issue, as applicable, plus all accrued and unpaid dividends thereon, up to and including the date of redemption and (ii) the number of shares of common stock issuable upon conversion of the applicable Series B Preferred Stock multiplied by the average of the closing sale price of the common stock for the five (5) business days immediately prior to the date of redemption plus all accrued and unpaid dividends thereon, up to and including the date of redemption.

As of September 30, 2026 and December 31, 2025, all then-outstanding shares of Series B Preferred Stock were classified as mezzanine equity on the Unaudited Consolidated Balance Sheets at its redemption value because it is probable of becoming redeemable. The Company recorded remeasurement of the Series B Preferred Stock, which reduces Additional paid-in capital, on the Unaudited Consolidated Statements of Shareholders' Deficit.

20. Earnings Per Share

The following table provides the numerators and denominators used in computing basic and diluted net income (loss) per share for the three months ended September 30, 2026 and 2025. Generally, basic earnings per share ("EPS") is computed by dividing earnings available to common shareholders by the weighted average number of shares of common stock outstanding during the period. In accordance with ASC 260, the DOE Warrants are included in basic EPS as the shares are issuable for little cash consideration. The SPA Warrant, Series B Preferred Stock, the warrants issued in 2023, May 2025 Convertible Notes and November 2025 Convertible Notes are participating securities that do not have the obligation to share in the losses of the Company. Therefore, the more dilutive of the "if-converted" and "two-class" method must be applied when calculating EPS for the common shares.

For purposes of basic EPS, the "two-class" method was applied and undistributed earnings were allocated to participating securities. These undistributed earnings were allocated based on each participating securities' proportionate share of the total weighted-average shares outstanding. On July 21, 2026, the Company completed its Rights Offering as described within Note 18, *Shareholders' Deficit*. As the exercise price of the right was less than the fair value of the Common stock, the right contained a bonus element. In accordance with ASC 260 — *Earnings per Share*, the Company's weighted average shares outstanding for basic and diluted loss per share were retroactively adjusted for all prior periods presented by a factor of 1.0045.

20. Earnings Per Share (cont.)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Numerator				
Net Income (Loss) available	$ 360,717	$ (1,332,487)	$ 1,242,210	$ (1,486,133)
Less: Undistributed earnings allocated to participating securities	(128,147)	—	(443,291)	—
Net income available to common shareholders	$ 232,570	$ (1,332,487)	$ 798,919	$ (1,486,133)
Denominator				
Weighted average shares outstanding - basic	361,795,384	272,839,188	347,292,217	246,192,674
Earnings per share:				
Basic	$ 0.64	$ (4.88)	$ 2.30	$ (6.04)

For purposes of diluted EPS, the more dilutive of the “treasury-stock method”, “if-converted” and “two-class” method must be applied when calculating dilutive EPS.

20. Earnings Per Share (cont.)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Numerator				
Net Income (Loss) available	$ 360,717	$ (1,332,487)	$ 1,242,210	$ (1,486,133)
Effect of potentially dilutive shares:				
Adjustment for change in fair value on SPA Warrant	(118,281)	—	(334,965)	—
Adjustment for change in fair value on April, May and December 2023 Warrants	(77,746)	—	(234,379)	—
Adjustment for remeasurement of Series B Preferred Stock	(249,476)	—	(897,796)	—
Adjustment for change in fair value of HBC Exchange Right/CCM Call Option	(11,270)	—	(11,270)	—
Net income (loss) for diluted earnings per share	$ (96,056)	$ (1,332,487)	$ (236,200)	$ (1,486,133)
Denominator				
Weighted-average basic common shares outstanding	361,795,384	272,839,188	347,292,217	246,192,674
Dilutive effect of Series B Preferred Stock	125,792,764	—	119,506,625	—
Dilutive effect of warrants	54,549,129	—	63,507,401	—
Dilutive effect of HBC Exchange Right/ CCM Call Option	5,651,936	—	1,904,682	—
Dilutive effect of RSUs	2,944,136	—	6,068,165	—
Dilutive effect of PRSUs	1,812,139	—	1,876,913	—
Dilutive effect of stock options	723,852	—	1,104,028	—
Weighted-average dilutive common shares outstanding	553,269,340	272,839,188	541,260,031	246,192,674
Earnings per share:				
Diluted	$ (0.17)	$ (4.88)	$ (0.44)	$ (6.04)

The following potentially dilutive shares were excluded from the calculation of diluted net income (loss) per share because their effect would have been anti-dilutive.

	Three Months Ended September 30,	Nine Months Ended September 30,
	2026	2026
Stock options, RSUs, PRSUs	7,618,866	6,109,543
Public and private placement warrants	39,050,278	39,050,278
Convertible Notes (if converted)	58,498,210	58,498,210

20. Earnings Per Share (cont.)

Management has elected to recognize changes in the redemption value of the Series B Preferred Stock. At each balance sheet date, the redemption value of the Series B Preferred Stock will be calculated and remeasured to its redemption value. The remeasurement is recorded as a deemed dividend or contribution, which, in the absence of Retained earnings, is recognized within additional paid in capital and earnings available to common shareholders in computing basic and diluted EPS. Other potentially dilutive common shares and the related impact to earnings are considered when calculating EPS on a diluted basis.

Since the Company incurred a net loss for the three and nine months ended September 30, 2025, respectively, the potential dilutive shares from stock options, restricted stock units, warrants, convertible notes and Series B Preferred Stock were excluded from the calculation of diluted net loss per share because their effect would have been anti-dilutive for the periods presented. Therefore, basic and diluted EPS are computed using the same number of weighted-average shares for the three and nine months ended September 30, 2025. The following potentially dilutive shares were excluded from the calculation of diluted net loss per share because their effect would have been anti-dilutive for the three and nine months ended September 30, 2025, respectively:

	Three and Nine Months Ended September 30,
	2025
Stock options, RSUs, PRSUs	15,920,169
Public and private placement warrants	91,120,464
Convertible Notes (if converted)	57,603,462
Series B Preferred Stock	116,311,460

21. Segment Reporting

The Company's chief operating decision-maker ("CODM") is its Chief Executive Officer. Operating segments are defined as components of an entity for which separate financial information is available and that is regularly reviewed by the CODM in deciding how to allocate resources to an individual segment and in assessing performance. The Company's CODM reviews financial information presented on a consolidated basis for purposes of making operating decisions, allocating resources and evaluating financial performance. As such, the Company has determined that it operates in one operating and one reportable segment.

The Company designs, develops, manufactures and markets innovative zinc-based energy storage solutions for utility-scale, microgrid and C&I applications. The Company operates and holds long-lived assets in a single geographical region, with the majority of its revenue coming from customers in the United States.

The CODM reviews financial information on a consolidated basis and uses Gross profit (loss) and Net income (loss) to assess financial performance considering budget-to-actual variances when making key decisions on how to allocate company resources.

21. Segment Reporting (cont.)

The Company's segment information is summarized as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Product revenue	$ 12,984	$ 30,209	$ 82,431	$ 54,191
Product revenue - related parties	68,447	—	123,481	—
Service revenue	1,300	303	2,557	2,014
Total revenue	82,731	30,512	208,469	56,205
Less:				
Cost of goods sold	126,934	64,437	345,900	145,622
Gross profit (loss)	(44,203)	(33,925)	(137,431)	(89,417)
Less:				
Research and development	10,910	6,925	32,134	20,963
Selling, general and administrative	23,819	19,786	72,414	66,269
Other segment items[(a)]	(203,975)	580,757	(600,195)	672,545
Net income (loss)	$ 125,043	$ (641,393)	$ 358,216	$ (849,194)

(a) Other segment items include loss from write-down of property, plant and equipment, restructuring expense, interest expense, net, change in fair value of debt, change in fair value of warrants, change in fair value of derivatives, costs related to the Company's debt transactions and other miscellaneous items.

Additional segment financial information is summarized as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
Segment assets	$ 1,068,485	$ 328,210	$ 1,068,485	$ 328,210
Depreciation and amortization	$ 7,528	$ 3,365	$ 18,989	$ 8,980
Interest income	$ 2,930	$ 1,161	$ 9,371	$ 2,826
Interest expense	$ 12,989	$ 5,167	$ 37,203	$ 19,416
Capital expenditures[(b)]	$ 35,398	$ 17,757	$ 105,949	$ 29,716

(b) Includes Intangible assets.

The following geographic area data includes net sales based on product shipment destination.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2026	2025	2026	2025
United States	$ 76,130	$ 30,512	$ 172,679	$ 56,205
United Kingdom	—	—	28,887	—
Germany	6,601	—	6,903	—
Total	$ 82,731	$ 30,512	$ 208,469	$ 56,205

22. Restructuring

Eos is focused on building a scalable platform for growth by streamlining operations, simplifying manufacturing processes and investing in initiatives that drive innovation and commercial expansion. These efforts are designed to improve operating leverage, support future growth opportunities and advance the Company's path toward profitability. As part of these efforts, the Company is relocating manufacturing activities from the Turtle Creek manufacturing facility to Thorn Hill with the production line anticipated to be operational in first quarter 2027 and expected completion date of clean up activities at Turtle Creek in second quarter 2027. The Company anticipates the it will incur one-time restructuring charges of approximately $16,000 to $18,000 relating primarily to moving and clean-up costs. These costs are included within Restructuring expenses within the Consolidated Statement of Operations and Comprehensive Income (Loss).

	2026
Other restructuring charges	$ 281
Total	$ 281

23. Subsequent Events

The Company has evaluated subsequent events through the issuance date of these financial statements. No material subsequent events were identified that require disclosure.

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

The following discussion should be read in conjunction with the accompanying Unaudited Condensed Consolidated Financial Statements for the nine months ended September 30, 2026 and 2025 and the Company's Annual Report on Form 10-K for the year ended December 31, 2025, including the financial statements and notes thereto.

Overview

The Company offers an innovative Znyth™ technology battery energy storage system ("BESS") designed to provide the operating flexibility to manage increased grid complexity and price volatility resulting from an overall increase in renewable energy generation and a congested grid coming from an increase in electricity demand growth. The Company's BESS is a validated chemistry with accessible non-precious earth components in a durable design that is intended to deliver results in even the most extreme temperatures and conditions. The system is designed to be safe, flexible, scalable, sustainable and manufactured in the United States, using raw materials primarily sourced in the United States. We believe the Company's Z3 battery module is the core of its innovative systems. The Z3 battery module is the only U.S. designed and manufactured battery module that today provide utilities, independent power producers, renewables developers and C&I customers with an alternative to lithium-ion and lead-acid monopolar batteries for critical 3- to 12-hour discharge duration applications. We believe the Z3 battery will transform how utility, industrial and commercial customers store power.

In addition to its BESS, the Company currently offers: (a) a BMS which provides a remote asset monitoring capability and service to track the performance and health of the Company's BESS and to proactively identify future system performance issues through predictive analytics; (b) project management services to ensure the process of implementing the Company's BESS are coordinated in conjunction with the customer's overall project plans; (c) commissioning services that ensure the customer's installation of the BESS meets the performance expected by the customer; and (d) long-term maintenance plans to maintain optimal operating performance of the Company's systems.

The Company's growth strategy contemplates increasing sales of battery energy storage systems and related software and services through a direct sales team and sales channel partners. The Company's current and target customers include utilities, project developers, independent power producers, C&I companies and government contracts.

Strategy

Eos's core business is to design, manufacture and sell proprietary zinc-based battery storage systems for stationary energy storage applications. Building on this foundation, our strategy is to evolve beyond a traditional battery original equipment manufacturer ("OEM") into a systems-integrated energy company.

The Company continues to invest in the design, development and production of its next-generation product, the Eos Z3 battery. The Z3 builds upon the same underlying electrochemistry the Company has utilized for over a decade. The Eos Z3 is engineered to reduce cost and weight while improving manufacturability and overall system performance. Compared to the Company's prior Gen 2.3 product, the Z3 incorporates a more cost-effective design, including a simplified tub structure, approximately 50% fewer cells and approximately 98% fewer welds per battery module. The Company believes the Eos Z3 will provide customers with approximately twice the energy density per square foot while maintaining the safety and reliability characteristics of the previous generation.

The Company has successfully transitioned to the Eos Z3 platform, enabled by the commissioning and commercial operation of its first fully automated battery manufacturing line. Building on the same proven chemistry that has demonstrated durability over more than 3 million cycles, the Z3 incorporates a redesigned mechanical architecture that enhances performance, reduces costs and improves manufacturability. Since commencing shipments of Z3 battery modules in the third quarter of 2023, the Company has continued to leverage more than fifteen years of accumulated operational experience to drive manufacturing efficiencies as production scales and its state-of-the-art operations expand. In 2025, the Company further enhanced its product offering with the introduction of DawnOS, a software platform that serves as the intelligence layer of its battery energy storage system ("BESS"). Fully integrated with the Z3 architecture, DawnOS is designed to manage large numbers of battery modules in real time through advanced balancing, dynamic switching, automation and embedded security capabilities. The platform is intended to increase usable energy per cycle, improve system reliability and resilience, reduce field service requirements and enable continuous operation even when individual modules become imbalanced. The Company expects DawnOS to be an integral component of its product portfolio going forward, supporting enhanced efficiency, safety and overall system performance.

In 2026, the Company introduced Eos Indensity, an energy storage architecture that uses a spatial intelligence design framework to provide high-density storage with flexibility and safety in constrained as well as traditional sites. The system targets up to 1 GWh per acre, roughly four times most incumbent footprints, through stackable Indensity Core units that integrate Eos Z3 battery modules with the Eos DawnOS controls platform. The modular self contained form factor enables efficient transport, simplified installation and long-term serviceability. Eos Indensity can be deployed indoors or outdoors, including inside existing buildings. It addresses long duration, response driven use cases across data centers, military bases, manufacturing facilities and critical infrastructure, supported by a domestic FEOC compliant supply chain. The Company expects Indensity to be an integral component of its product portfolio going forward.

The Company believes that the simplicity, flexibility and safety characteristics of its products represent important attributes valued by the market. In addition, the Company benefits from legislative incentives, including the Inflation Reduction Act and the One Big Beautiful Bill Act ("OBBBA"), which provide production tax credits (“PTC”) for domestically manufactured battery components, as well as tax credits available to customers for projects that satisfy domestic content requirements. The Company also intends to continue working with a consortium of community organizations, universities and supply chain partners to pursue available funding opportunities under the Bipartisan Infrastructure Law of 2021.

Business Update

Strategic Energy Management System (“EMS”) Collaboration with WATTMORE, Inc.

In August 2026, the Company entered into a non-exclusive strategic collaboration agreement with WATTMORE, Inc. to integrate WATTMORE's Intellect Operate energy management and power plant control platform with the Company's Z3 long-duration energy storage systems and DawnOS software. Under the agreement, Eos will deploy WATTMORE's platform on select customer projects, expanding the controls ecosystem for the Company's energy storage solutions and supporting streamlined project deployment.

Management believes the integrated platform will simplify project deployment, reduce implementation complexity and enhance the overall customer value proposition by offering a more comprehensive energy storage solution.

Manufacturing Consolidation

In August 2026, the Company announced plans to consolidate its battery manufacturing operations at its Thorn Hill facility in Warrendale, Pennsylvania. Commercial production at the 432,000-square-foot facility commenced in June 2026, and our battery manufacturing activities have now been centralized into a single location. Both the Thorn Hill and Turtle Creek facilities will continue to support cube assembly, testing, and shipping operations.

The Thorn Hill facility is expected to provide approximately 4 GWh of annual nameplate manufacturing capacity when both production lines are fully operational, supporting the Company's anticipated growth and expansion of customer deployments.

This consolidation represents a key component of the Company's ongoing efforts to enhance manufacturing scalability and become profitable. Management believes the consolidation will improve manufacturing efficiency by reducing material handling and streamlining production workflows. Upon completion of the transition, the Company expects to achieve conversion cost reductions, with benefits anticipated to begin in 2027. The Company currently expects to complete the transition without impacting customer delivery commitments.

DOE Funding

In September 2026, the Company. received an $87.0 million advance under the DOE Loan Facility, bringing total borrowings under the facility to approximately $178.0 million. The advance reimbursed 80% of eligible costs associated with the Company’s Thorn Hill manufacturing facility and supports the ramp-up of its second manufacturing line, which has a designed annual capacity of approximately 2 GWh.

Results of Operations

Revenue

($ in thousands)	Three Months Ended September 30, 2026	2025	$ Change	% Change	Nine Months Ended September 30, 2026	2025	$ Change	% Change
Revenue	$ 14,284	$ 30,512	$ (16,228)	(53)%	$ 84,988	$ 56,205	$ 28,783	51 %
Revenue - related party	68,447	—	$ 68,447	— %	123,481	—	$ 123,481	— %
Total revenue	$ 82,731	$ 30,512	$ 52,219	171 %	$ 208,469	$ 56,205	$ 152,264	271 %

The Company generates revenues from the delivery of its BESS and service-related solutions. The Company expects revenues to increase as it scales production to meet customer demand.

For the three months ended September 30, 2026, Total revenue increased by $52.2 million or 171% from $30.5 million. For the nine months ended September 30, 2026, Total revenue increased by $152.3 million or 271% from $56.2 million.

The increase for the three months ended September 30, 2026 was primarily driven by a 229% increase in deliveries, higher revenue from third-party materials and an increase in service revenue. The increase for the nine months ended September 30, 2026 was primarily driven by a 260% increase in deliveries, an increase in third-party materials and an increase in service revenue.

The Company's revenue profile is influenced by the timing of project deployments. As a result, revenue and customer concentration may fluctuate significantly between reporting periods, depending on shipment schedules and project execution milestones. For the three months ended September 30, 2026, approximately 83% of the Company’s revenue was attributable to deliveries associated with related party projects. For the nine months ended September 30, 2026, approximately 59% of revenue attributable to deliveries associated with related-party projects.

The Company expects revenue concentration to vary from period to period as individual projects advance through their delivery schedules. We expect the Company's revenue mix to align generally with the composition of its backlog and the timing of project deliveries. Accordingly, revenue and customer concentration in any given reporting period may be influenced by the timing and scale of specific project deliveries rather than changes in underlying customer demand.

($ in thousands)	Three Months Ended September 30, 2026	2025	$ Change	% Change	Nine Months Ended September 30, 2026	2025	$ Change	% Change
Cost of goods sold	$ 126,934	$ 64,437	$ 62,497	97 %	$ 345,900	$ 145,622	200,278	138 %

Cost of goods sold primarily consists of direct labor, materials and overhead associated with product assembly as well as project delivery, commissioning and field installation activities prior to projects becoming operational. Indirect costs included in Cost of goods sold are manufacturing overhead such as equipment maintenance, environmental health and safety, quality and production control procurement, transportation, logistics, depreciation and facility-related costs.

For the three months ended September 30, 2026, Cost of goods sold increased $62.5 million or 97% compared to the three months ended September 30, 2025. For the nine months ended September 30, 2026, Cost of goods sold increased $200.3 million or 138% compared to the nine months ended September 30, 2025. The increase primarily relates to raw materials and outside labor as the Company continues to ramp production.

The increase in Cost of goods sold for the three and nine months ended September 30, 2026 was less than the growth of revenue allowing the Company to generate gross margin improvements. For the three months ended September 30, 2026, gross margin improved to approximately (53)% from (111)% from the three months ended September 30, 2025, an improvement of 58 percentage points. For the nine months ended September 30, 2026, gross margin improved to approximately (66)% from (159)% for the nine months ended September 30, 2025, an improvement of 93 percentage points. The Company is currently executing a fully deployed margin improvement program across the organization. For direct material, engineering and procurement are partnering in bundle buy negotiations, product redesign and supplier collaboration programs to deliver cheaper solutions. For conversion costs, the Company is beginning to realize savings from the more efficient lay out and automated process at Thorn Hill as volume is ramping. As the cost structure initiatives are implemented and operational efficiencies continue to improve, management expects further gross margin improvement in future periods.

Research and development expenses

($ in thousands)	Three Months Ended September 30, 2026	2025	$ Change	% Change	Nine Months Ended September 30, 2026	2025	$ Change	% Change
R&D expenses	$ 10,910	$ 6,925	$ 3,985	58 %	$ 32,134	$ 20,963	11,171	53 %

Research and development expenses consist primarily of salaries and other personnel-related costs, materials, third-party services, depreciation and amortization of intangible assets.

For the three months ended September 30, 2026 Research and development expenses increased $4.0 million or 58%, compared to the three months ended September 30, 2025. For the nine months ended September 30, 2026, Research and development expenses increased $11.2 million or 53% compared to the nine months ended September 30, 2025. The increase primarily relates to payroll, outside services and material costs.

The Company has continued to strategically invest in research and development initiatives designed to reduce production costs, improve product performance and further vertically integrate its battery solution. Key areas of investment include simplifying the Z3 battery design, qualifying alternative materials, increasing manufacturing efficiency and enhancing control systems to improve site monitoring capabilities, optimize system performance and improve automated system operation. From a cost category standpoint, the increase in R&D was primarily related to costs of material and supplies, outside services and payroll related costs.

Selling, general and administrative expenses

($ in thousands)	Three Months Ended September 30, 2026	2025	$ Change	% Change	Nine Months Ended September 30, 2026	2025	$ Change	% Change
SG&A expenses	$ 23,819	$ 19,786	$ 4,033	20 %	$ 72,414	$ 66,269	6,145	9 %

Selling, general and administrative expenses primarily consist of payroll and personnel-related, outside professional services, facilities, depreciation, travel, marketing and public company costs.

For the three months ended September 30, 2026 Selling, general and administrative expenses increased $4.0 million or 20% compared to the three months ended September 30, 2025. For the nine months ended September 30, 2026, Selling, general and administrative expenses increased $6.1 million or 9% compared to the nine months ended September 30, 2025. The increases in SG&A was primarily related to an increase in payroll and outside services.

The Company has invested ahead of expected growth by building the team, systems and capabilities required to support a significantly larger revenue base. As revenue grows, management expects SG&A expenses to grow at a slower pace than revenue, allowing SG&A to become a smaller percentage of revenue over time. As a result, SG&A expenses as a percentage of revenue improved to approximately 29% for the three months ended September 30, 2026, compared to 65% for the same period in the prior year, representing a 36 percentage point improvement. For the nine months ended September 30, 2026, SG&A expenses improved to approximately 35% of revenue compared to 118% of revenue in the prior-year period, representing an 83 percentage point improvement.

Loss from write-down of property, plant and equipment

($ in thousands)	Three Months Ended September 30, 2026	2025	Nine Months Ended September 30, 2026	2025
Loss from write-down of property, plant and equipment	$ 108	$ 585	$ 184	$ 1,351

For the three and nine months ended September 30, 2026, the Company incurred a loss of $0.1 million and $0.2 million, respectively, from write-down of property, plant and equipment. The write-downs were mainly attributable to the disposal of miscellaneous equipment and tooling.

For the three and nine months ended September 30, 2025, the Company incurred a loss of $0.6 million and $1.4 million, respectively, from write-down of property, plant and equipment. The write-downs were mainly attributable to design changes from the Z3-Phase 1 to Z3-Phase 2 production in which the Phase 1 production assets could not be utilized or repurposed for

Phase 2 production. Additionally, the loss from write-down of property, plant and equipment contains costs for disposal of miscellaneous equipment and tooling that cannot be repurposed for more automated processes.

Restructuring expense

	Three Months Ended September 30,		Nine Months Ended September 30,	
($ in thousands)	2026	2025	2026	2025
Restructuring expense	$ 281	$ —	$ 281	$ —

For the three and nine months ended September 30, 2026, Restructuring expense was $0.3 million, primarily attributable to site preparation work for moving the production line from Turtle Creek to the Thorn Hill facility.

Interest expense

	Three Months Ended September 30,		Nine Months Ended September 30,	
($ in thousands)	2026	2025	2026	2025
Interest expense	$ (12,989)	$ (6,007)	$ (37,203)	$ (9,965)

Interest expense includes expenses for contractual interest, amortization of debt issuance costs and debt discounts, partially offset by capitalized interest costs on CIP assets.

Interest expense increased $7.0 million and $27.2 million for the three and nine months ended September 30, 2026, respectively, compared to the three and nine months ended September 30, 2025, primarily attributable to an increased principal balance under the DOE Loan Facility and interest associated with the May 2025 Convertible Notes and November 2025 Convertible Notes, which were outstanding for the entire period for the three and nine months ended September 30, 2026. See Note 12, *Borrowings,* for further discussion.

Interest expense - related party

	Three Months Ended September 30,		Nine Months Ended September 30,	
($ in thousands)	2026	2025	2026	2025
2021 Convertible Note Payable interest and amortization	$ —	$ —	$ —	$ (6,613)
AFG Convertible Note interest and amortization	—	840	—	(2,838)
Interest expense, related party	$ —	$ 840	$ —	$ (9,451)

Interest expense - related party decreased $0.8 million and $9.5 million for the three and nine months ended September 30, 2026, respectively, compared to the three and nine months ended September 30, 2025, attributable to the fact that the 2021 Convertible Note Payable and the AFG Convertible Note were no longer outstanding during the three and nine months ended September 30, 2026. See Note 12, *Borrowings,* for further discussion.

Interest income

($ in thousands)	Three Months Ended September 30, 2026	Three Months Ended September 30, 2025	Nine Months Ended September 30, 2026	Nine Months Ended September 30, 2025
Interest income	$ 2,930	$ 1,161	$ 9,371	$ 2,826

Interest income increased $1.8 million and $6.5 million for the three and nine months ended September 30, 2026, respectively, compared to the three and nine months ended September 30, 2025. The increase is mainly attributable to the increase in Cash and cash equivalents held by the Company for the respective periods.

Change in fair value of debt - related party

($ in thousands)	Three Months Ended September 30, 2026	Three Months Ended September 30, 2025	Nine Months Ended September 30, 2026	Nine Months Ended September 30, 2025
Change in fair value of debt - related party	$ (4,534)	$ (3,570)	$ (13,300)	$ 22,112

The Change in fair value of debt - related party is related to the DDTL. The Change in fair value of debt - related party was $4.5 million expense and $3.6 million expense for the three months ended September 30, 2026 and September 30, 2025, respectively, and $13.3 million expense and $22.1 million income for the nine months ended September 30, 2026 and September 30, 2025, respectively.

For the three and nine months ended September 30, 2026, the primary factor contributing to the change in fair value is the accretion of the DDTL resulting from the passage of time.

For the three months ended September 30, 2025, the primary factor contributing to the change in fair value is the accretion of the DDTL resulting from the passage of time. For the nine months ended September 30, 2025, the primary factor contributing to the change in fair value was a decrease in the DDTL interest rate from 15% to 7% per annum (as amended), as a result of the modification of the DDTL, partially offset by the accretion of the DDTL resulting in the passage of time. See Note 12, *Borrowings,* for further discussion.

Change in fair value of warrants

For the three and nine months ended September 30, 2026 and 2025, the change in fair value of warrants was composed of the items below:

($ in thousands)	Three Months Ended September 30, 2026	Three Months Ended September 30, 2025	Nine Months Ended September 30, 2026	Nine Months Ended September 30, 2025
IPO warrants	$ —	$ (292)	$ —	$ (193)
April 2023 warrants	41,280	(91,840)	124,800	(95,921)
May 2023 warrants	9,473	(21,036)	28,600	(21,921)
December 2023 warrants	26,993	(127,657)	70,486	(134,801)
Change in fair value of warrants	$ 77,746	$ (240,825)	$ 223,886	$ (252,836)

The change in the fair value of the warrants for the three and nine months ended September 30, 2026 and September 30, 2025 is largely driven by the Company's common stock price movement for the periods presented.

Change in fair value of derivatives

($ in thousands)	Three Months Ended September 30, 2026	Three Months Ended September 30, 2025	Nine Months Ended September 30, 2026	Nine Months Ended September 30, 2025
Change in fair value of derivatives	$ 13,222	$ —	$ 108,710	$ —

For the three months ended September 30, 2026, the Change in fair value of derivatives of $13.2 million is related to the change in fair value of securities issued as part of the Registered Direct Offering. The change is largely driven by the Company's common stock price movement for the periods presented.

For the nine months ended September 30, 2026, the Change in fair value of derivatives of $108.7 million related to the change in fair value of securities issued as part of the Registered Direct Offering and the change in fair value of the embedded derivative associated with the November 2025 Convertible Notes. The change is largely driven by the Company's common stock price movement for the periods presented.

On June 3, 2026, the Company's stockholders approved an amendment to increase authorized common shares from 600 million to 800 million. As a result, the November 2025 Convertible Notes became convertible into the Company's common stock, allowing the conversion feature to qualify for the derivative scope exception under ASC 815 as of that date and eliminating the requirement for subsequent fair value remeasurement.

On July 21, 2026, upon expiration of the Rights Offering, the Company reclassified the contingently issuable securities liability to equity. As a result, the instrument is no longer subject to remeasurement.

Change in fair value of derivatives - related parties

	Three Months Ended September 30,		Nine Months Ended September 30,	
($ in thousands)	2026	2025	2026	2025
Change in fair value of embedded derivatives - related parties	$ —	$ (58,988)	$ —	$ (66,318)
Change in fair value of warrants - related parties	118,281	(268,853)	334,965	(303,392)
Change in fair value of HBC Exchange Right/CCM Call Option	$ 11,270	$ —	$ 11,270	$ —
Change in fair value of derivatives - related parties	$ 129,551	$ (327,841)	$ 346,235	$ (369,710)

The Change in the fair value of derivatives - related parties, was attributable to the 2021 Convertible Note Payable and AFG Convertible Notes (See Note 12, *Borrowings*). The 2021 Convertible Note Payable and AFG Convertible Notes were not outstanding for the comparable period for the three and nine months ended September 30, 2026.

The Change in fair value of warrants - related parties was attributable to changes in fair value of our SPA Warrant and Contingent Warrants (See Note 13, *Warrants Liability*). The change is largely driven by the Company's common stock price movement for the periods presented.

The Change in fair value of HBC Exchange Right/CCM Call Option was attributable to the HBC Exchange Right and CCM Call Option. The HBC Exchange Right and CCM Call Option do not qualify for equity classification under ASC 815-40 and are measured at fair value at each reporting period. The change is largely driven by the Company's common stock price movement for the periods presented.

Loss on contingently issuable securities

	Three Months Ended September 30,		Nine Months Ended September 30,	
($ in thousands)	2026	2025	2026	2025
Loss on contingently issuable securities	$ —	$ —	$ (35,662)	$ —

The Loss on contingently issuable securities for the nine months ended September 30, 2026, was attributable to the securities issued in connection with the Registered Direct Offering (See Note 14, *Fair Value Measurement*). The loss is driven by the fair value of securities to be issued compared to the consideration to be received. The contingently issuable securities do not impact the three and nine months ended September 30, 2025 or three months ended September 30, 2026.

Other expense

($ in thousands)	Three Months Ended September 30, 2026	Three Months Ended September 30, 2025	Nine Months Ended September 30, 2026	Nine Months Ended September 30, 2025
Other expense	$ (100)	$ (337)	$ 103	$ (1,503)

For the three months ended September 30, 2026, Other expense of $0.1 million primarily relates to fees related to the Registered Direct Offering and Rights Offering. For the nine months ended September 30, 2026, Other expense of $0.1 million primarily relates to fees related to the Registered Direct Offering and Rights Offering, partially offset by insurance claims.

For the three months ended September 30, 2025, Other expense of $0.3 million primarily relates to costs associated with professional fees related to the amendment of the AFG Convertible Notes.

For the nine months ended September 30, 2025, Other expense of $1.5 million primarily relates to costs associated with professional fees related to the Cerberus Amendments, extinguishment of the 2021 Convertible Notes, recognition of financing issuance costs from the Credit and Securities Purchase Transaction and professional fees associated with the amendment of the AFG Convertible Notes.

Income tax expense (benefit)

($ in thousands)	Three Months Ended September 30, 2026	Three Months Ended September 30, 2025	Nine Months Ended September 30, 2026	Nine Months Ended September 30, 2025
Income tax expense (benefit)	$ 1,462	$ 4	$ 1,480	$ 15

The Company incurred income tax expense for the three and nine months ended September 30, 2026, was attributable to taxable earnings from the Company's foreign operations and income tax expense recognized from the Company's difference in tax basis for the FPUSA formation.

The Company incurred income tax expense for the three and nine month ended September 30, 2025 was attributable to taxable earnings from the Company's foreign operations.

Liquidity and Capital Resources

During the nine months ended September 30, 2026, the Company incurred Net income of $358.2 million. Adjustments to reconcile the net income to cash used in operations are primarily from non-cash items on the Unaudited Condensed Consolidated Statements of Cash Flows. The non-cash items totaled $571.5 million. The Company incurred negative cash flows from operations of $261.6 million and had an accumulated deficit of $2,193.7 million as of September 30, 2026.

As of September 30, 2026, the Company had $271.2 million of unrestricted cash and cash equivalents available to fund the Company's operations, and working capital of $358.9 million on the Unaudited Condensed Consolidated Balance Sheets. Additionally, the Company had $72.9 million of restricted cash, refer to Note 4, *Cash, Cash Equivalents and Restricted Cash,* for further discussion.

Financing Arrangements

The Company has historically relied on outside capital to fund its cost structure and expects this reliance to continue for the foreseeable future until the Company reaches profitability. During the three and nine months ended September 30, 2026, the Company closed the following capital transactions:

In July 2026, the Company closed its Registered Direct Offering pursuant to which it issued 13,683,634 shares of common stock and 6,004,378 warrants, each warrant exercisable for one share of common stock at an exercise price of $5.481 per share, to HBMF. The Company received aggregate net proceeds from the Registered Direct Offering of approximately $74.9 million.

In August 2026, the Company closed the Rights Offering pursuant to which the Company issued 6,885,218 Units which separated upon closing and were issued separately as 6,885,218 shares of common stock and 3,019,242 warrants, each warrant exercisable for one share of common stock at an exercise price of $5.481 per share. The Company received aggregate gross proceeds from the Rights Offering of approximately $37.7 million.

Proceeds from the Registered Direct Offering and Rights Offering were used to fund the Company's investment in FPUSA.

In August 2026, the Company delivered to the DOE and the FFB a third advance request, and on September 10, 2026, the FFB funded $87.0 million under the FFB Promissory Note (the "third loan advance").

Through September 30, 2026, under the DOE Loan Facility, the Company drew down approximately $178.0 million for the eligible project costs that the Company had incurred. These costs represent Tranche 1 and a portion of Tranche 2 of the DOE Loan Facility for eligible costs in connection with the design, construction, installation, startup and shakedown of a battery automation line and related tools. The Company has approximately $99.5 million of availability under the DOE Loan Facility. In the event the Company does not achieve certain funding conditions and the DOE chooses not to continue funding, the Company may need to seek alternative sources of capital, which may not be available on favorable terms or at all.

Capital Expenditures

The Company expects capital expenditures and working capital requirements to increase as it seeks to execute its growth strategy. Total capital expenditures for the nine months ended September 30, 2026 and September 30, 2025 were $105.9 million and $29.7 million, respectively. See Note 6, *Property, Plant and Equipment,* and Note 7, *Intangible Assets,* for further discussion.

Investment in joint venture

The Company made an investment in FPUSA during the nine months ended September 30, 2026 for $112.6 million in cash contributions. See Note 8, *Equity Method Investment,* for further discussion.

Discussion and Analysis of Cash Flows

The Company relies heavily on private placements of convertible notes, term loans and issuance of common stock and warrants. Our short-term working capital needs are primarily related to funding of debt interest payments, product manufacturing, research and development and general corporate expenses. The Company's long-term working capital needs are primarily related to repayment of long-term debt obligations and capital expenses for capacity expansion and maintenance, equipment upgrades and repair of equipment.

The following table summarizes the Company's cash flows from operating, investing and financing activities for the periods presented.

	Nine Months Ended September 30,			
($ in thousands)	2026	2025	$ Change	% Change
Net cash used in operating activities	$ (261,591)	$ (160,926)	$ (100,665)	63 %
Net cash used in investing activities	$ (218,955)	$ (29,716)	$ (189,239)	637 %
Net cash provided by financing activities	$ 200,065	$ 214,079	$ (14,014)	(7)%

Cash flows from operating activities:

Cash flows used in operating activities primarily comprise of costs related to research and development, manufacturing of products, project commissioning and other general and administrative activities.

Net cash used in operating activities was $261.6 million for the nine months ended September 30, 2026, adjusted for non-cash items of $571.5 million, primarily related to changes in fair value of warrants and derivatives, with offsets of stock compensation expense, depreciation and amortization, non-cash interest expense, loss on contingently issuable securities and change in fair value of debt - related party. The net cash outflows from changes in operating assets and liabilities was $48.3 million, primarily driven by an increase in grant receivable of $28.3 million attributable to increased volumes of production, an increase in inventory of $21.8 million to support anticipated customer demand and future shipments, decrease in contract liabilities of $6.2 million and increase in contract assets and contract assets related party of $9.5 million and $4.4 million, respectively, driven by revenue recognition and production, an increase in vendor deposits of $5.1 million to support anticipated customer demand, an increase in accounts receivable related party and accounts receivable of $0.1 million and $2.0 million, respectively, attributable to the increase in total sales and timing of customer payments and an increase in other of $5.0 million mainly related to tax credits. This was partially offset by an increase of accounts payable of $3.7 million relating to increased production and timing of vendor payments, an increase in accrued expenses of $16.7 million which is attributable to timing of payroll, accruals for legal and professional fees, volume-related warranty accruals, an increase in contract liabilities related party of $9.8 million driven by timing on revenue recognition for established contracts and cash receipts and an increase in the deferred tax liability of $4.7 million from the Company's difference in tax basis for the FPUSA formation.

Net cash used in operating activities was $160.9 million for the nine months ended September 30, 2025, adjusted for non-cash items of $691.7 million, primarily related to stock compensation expense, loss on debt extinguishment and changes in fair value of debt, warrants and derivatives. The net cash outflows from changes in operating assets and liabilities was $3.4 million primarily driven by an increase in grant receivable of $10.0 million, decrease in contract liabilities of $7.2 million attributable to customer cash receipts and increase in inventory of $6.7 million and an increase in vendor deposits of $5.0 million, partially offset by increase in accounts payable of $22.2 million.

Cash flows from investing activities:

Net cash flows used in investing activities for the nine months ended September 30, 2026 were composed of payments made for purchases of property, plant and equipment of $105.7 million and minor investments in internally developed software. The increase in cash flows used for the purchase of property, plant and equipment are primarily to support the growth of manufacturing facilities at our Warrendale location. The Company had net cash used for the FPUSA equity method investment of $112.6 million as part of the strategic investment and partnership.

Net cash flows used in investing activities for the nine months ended September 30, 2025 $29.7 million, primarily related to $28.8 million of payments made for purchases of property, plant and equipment for the improvement of manufacturing facilities and $0.9 million of investment made for internally developed software.

Cash flows from financing activities:

Net cash provided by financing activities was $200.1 million for the nine months ended September 30, 2026, primarily attributable to the proceeds received from the issuance of common stock of $112.7 million, the proceeds received from the DOE Loan of $87.0 million and the exercise of warrants during the period of $3.3 million. The proceeds were partially offset by debt issuance costs of $0.9 million and share repurchases from employees for tax withholding of $2.0 million.

Net cash provided by financing activities was $214.1 million for the nine months ended September 30, 2025, primarily attributable to the proceeds received from the following transactions: issuance of 2025 Convertible Notes of $240.0 million, public offering of $81.1 million, Credit and Securities Purchase Transaction of $38.5 million, DOE Loan of $22.7 million, and exercise of warrants of $14.2 million. The proceeds were partially offset by payoff of the 2021 Convertible Notes Payable and Delayed Draw Term Loan of $180.9 million, debt and equity issuance costs of $4.6 million and payments on the equipment financing facility of $1.3 million. Proceeds from the public offering and issuance of the 2025 Convertible Notes were used to repurchase the 2021 Convertible Notes and prepay a portion of the DDTL.

Contractual Obligations

The Company has certain obligations and commitments to make future payments under contracts. As of September 30, 2026, this is composed of the following:

- Future lease payments, including interest, under non-cancellable operating and financing leases of $70.4 million. The leases expire at various dates prior to 2039.
- Principal and Interest payments related to the following debt obligations (see Note 12, *Borrowings,* for further discussion):

	Future Debt Payments
Delayed Draw Term Loan - due June 2034 [1] [2]	$ 348,386
DOE Loan Facility - due June 2034 [1] [2]	228,463
May 2025 Convertible Notes - due June 2030	63,500
November 2025 Convertible Notes - due December 2031	657,750
Total	$ 1,298,099

[1] As of September 30, 2026, the Company is obligated to repay future contractual interest payments for these borrowings in-kind.
[2] The DDTL and DOE Loan Facility contain Springing Maturity Dates that could make the debt due March 14, 2030.

Critical Accounting Estimates ("CAE")

The Company's Unaudited Condensed Consolidated Financial Statements are prepared in conformity with U.S. generally accepted accounting principles (U.S. GAAP). In preparing the Company's Unaudited Condensed Consolidated Financial Statements, management makes assumptions, judgments and estimates on historical experience and various other factors that we believe to be reasonable under the circumstances. Actual results could differ materially from these estimates under different assumptions or conditions. We regularly reevaluate our assumptions, judgments and estimates. The Company's significant accounting policies are described in the Company's Annual Report on Form 10-K for the year ended December 31, 2025.

Critical accounting estimates are those estimates that involve a significant level of estimation uncertainty and could have a material impact on our financial condition or results of operations.

There have been no material changes in the CAE's in the Company's Annual Report on Form 10-K for the year ended December 31, 2025.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

There have been no material changes in the Company's market risk exposures for the nine months ended September 30, 2026, as compared to those discussed in its Annual Report on Form 10-K for the year ended December 31, 2025.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, with the participation and supervision of our Chief Executive Officer and our Chief Financial Officer, has evaluated our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e)) under the Exchange Act as of the end of the period covered by this report. Based upon that evaluation and consistent with the evaluations previously reported in prior periods, the CEO and CFO have concluded that, as of the end of the period covered by this Report our disclosure controls and procedures were effective to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting during the quarter ended September 30, 2026, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II - Other information

Item 1. Legal Proceedings

From time to time, the Company may be involved in litigation relating to claims arising out of the Company's operations. Based on current information and subject to the inherent uncertainty of litigation, management does not expect that the ultimate costs to resolve these matters will have a material adverse effect on our consolidated financial position, results of operations or cash flows.

Securities Class Action

On March 6, 2026, a class action lawsuit (the "Yung Complaint") was filed in the United States District Court for the District of New Jersey by plaintiff Shui Shing Yung ("Plaintiff") against the Company and two individual officers: the Company's Chief Executive Officer and its then-acting Chief Financial Officer (with the Company, the "Yung Defendants"). The Yung Complaint alleges that the Yung Defendants violated federal securities laws by making knowingly false or misleading statements about the Company's manufacturing capabilities and financial outlook. The Yung Complaint seeks compensatory damages for Plaintiff and the other members of the putative class, including interest thereon and attorney's fees. Several alleged stockholders have filed motions seeking appointment by the Court as lead plaintiff; those motions are pending. The Company intends to vigorously contest this matter.

Shareholder Derivative Action

On March 13, 2026, a shareholder derivative lawsuit (the "Berger Complaint") was filed in the United States District Court for the District of New Jersey by plaintiff Paul Berger against certain defendants including the Company's Chief Executive Officer, the Company's then-acting Chief Financial Officer, and nine of the Company's then-current Directors (the "Berger Defendants"). The Berger Complaint alleges that the Berger Defendants breached their fiduciary duties to the Company by allowing the Company to make knowingly false or misleading statements about the Company's manufacturing capabilities and financial outlook. The Berger Complaint seeks declaratory relief, unspecified corporate governance reforms and compensatory damages, including interest thereon and attorney's fees.

On March 25, 2026, a shareholder derivative lawsuit (the "Skaff Complaint") was filed in the United States District Court for the District of New Jersey by plaintiff Ronald F. Skaff against certain defendants including the Company's Chief Executive Officer, the Company's then-acting Chief Financial Officer, and nine of the Company's then-current Directors (the "Skaff Defendants"). The Skaff Complaint alleges that the Skaff Defendants breached their fiduciary duties to the Company by allowing the Company to make knowingly false or misleading statements about the Company's manufacturing capabilities and financial outlook. The Skaff Complaint seeks declaratory relief, unspecified corporate governance reforms and compensatory damages, including interest thereon and attorney's fees.

On May 13, 2026, the Berger Complaint and the Skaff Complaint were consolidated into a single action (the "Consolidated Derivative Action"). The Consolidated Derivative Action was then stayed pending resolution of the Yung Complaint, including appeals therefrom. The Company intends to vigorously contest this matter.

Item 1A. Risk Factors

As of the date of this Quarterly Report on Form 10-Q, there have been no additional material changes to the risk factors disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2025, except as discussed below. We may disclose changes to such risk factors or disclose additional risk factors from time to time in our future filings with the SEC.

Risks Related to Our Investment in FPUSA

Our minority investment in FPUSA and related commercial arrangements may expose us to new risks and may not achieve the anticipated strategic or financial benefits.

Our minority investment in FPUSA represents an expansion of our business model beyond the manufacture and sale of energy storage systems. FPUSA has been formed to develop, finance, own and operate long-duration energy storage projects, which may expose us to risks associated with project development, financing, permitting, construction, interconnection, operations, electricity markets, asset ownership, insurance availability and performance, third-party performance and other matters outside our historical business. These risks may be difficult to predict or manage and may be affected by factors outside our control. Because we do not own a controlling interest in FPUSA, we may have limited ability to influence strategic, operational, financing or commercial decisions that could affect the value of our investment or our broader business objectives.

FPUSA is, and is expected to remain, a customer of the Company under arm's length commercial arrangements, and may also finance or facilitate purchases of our products by project companies, developers and other third parties, either directly or as co-customers with FPUSA. Our future revenues, backlog, customer concentration and growth strategy may therefore be affected, in part, by FPUSA's ability to develop, finance, construct, own, operate and monetize energy storage projects. If FPUSA is unable to execute its business plan, experiences financial or operational challenges, reduces or delays purchases of our products, or otherwise fails to meet expectations, our business, financial condition, results of operations and growth prospects could be adversely affected. Because FPUSA has represented, and may continue to represent, a significant portion of our backlog or revenues, any such reduction or delay could have a disproportionate effect on our near-term commercial performance. We will also need to continue to maintain a diversified customer base and avoid undue reliance on any single customer or commercial relationship.

As currently constructed, FPUSA is controlled and managed by affiliates of Cerberus Capital Management, a related party with other financing and equity relationships with the Company. As a result, situations may arise in which the interests of FPUSA, its owners and the Company are not fully aligned with respect to commercial arrangements, governance matters, financing decisions or other business activities. Although we have governance rights and expect to work collaboratively with our partners, our ability to influence matters affecting FPUSA may be limited and may depend on the nature of our ownership and governance rights from time to time.

At this time, the Company has concluded that FPUSA is not required to be consolidated into our financial statements based on the facts and circumstances currently known to us. This conclusion will be reassessed periodically, including at the conclusion of each reporting period and as relevant facts and circumstances evolve. Changes in FPUSA's business, ownership structure, governance arrangements, financing activities or other factors could result in a different accounting conclusion in the future, which could materially affect our financial statements, reported operating results and financial condition.

Our investment in FPUSA may be difficult to monetize and may result in losses, impairment charges, dilution or other adverse consequences. Our ability to exit or monetize our investment may be limited. In addition, equity financings, warrants, exchange rights or other securities issued or issuable in connection with our investment or related transactions have diluted and may further dilute existing stockholders. If our investment does not perform as expected, or fails to produce the anticipated strategic, operational or financial benefits expected, if the value of our investment declines, or if related obligations exceed our expectations, our business, financial condition, results of operations, liquidity and stockholder value could be materially adversely affected.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None

Item 3. Defaults Upon Senior Securities

None

Item 4. Mine Safety Disclosures

None

Item 5. Other Information

None

(a) Exhibits

Exhibit Number	Description of Document	Incorporated by Reference			
		Schedule/Form	File Number	Exhibits	Filing Date
3.1	Third Amended and Restated Certificate of Incorporation of the Company, as amended	Form 10-K	File No. 001-39291	3.1	February 28, 2023
3.2	Certificate of Amendment to the Third Amended and Restated Certificate of Incorporation of the Company, as amended	Form 10-Q	File No. 001-39291	3.2	May 14, 2024
3.3	Third Certificate of Amendment to the Third Amended and Restated Certificate of Incorporation of the Company	Form 8-A	File No. 001-39291	3.4	July 2, 2026
3.4*	Third Amended and Restated Bylaws of the Company				
3.5	Series A-1 Preferred Stock Certificate of Designation	Form 8-K	File No. 001-39291	3.1	June 24, 2024
3.6	Series A-2 Preferred Stock Certificate of Designation	Form 8-K	File No. 001-39291	3.1	August 30, 2024
3.7	Certificate of Designation of Series B-1 Non-Voting Convertible Preferred Stock	Form 8-K	File No. 001-39291	3.1	September 12, 2024
3.8	Certificate of Designation of Series B-2 Non-Voting Convertible Preferred Stock	Form 8-K	File No. 001-39291	3.2	September 12, 2024
3.9	Certificate of Designation of Series B-3 Non-Voting Convertible Preferred Stock	Form 8-K	File No. 001-39291	3.1	November 4, 2024
3.10	Certificate of Designation of Series B-4 Non-Voting Convertible Preferred Stock	Form 8-K	File No. 001-39291	3.1	January 27, 2025
4.1	Warrant Agreement	Form 8-K	File No. 001-39291	4.1	July 1, 2026
4.2	Form of Warrant Certificate	Form 8-K	File No. 001-39291	4.2	July 1, 2026
4.3	Warrant Agreement, dated August 3, 2026, by and between the Registrant and Continental Stock Transfer & Trust Company	Form 8-K	File No. 001-39291	4.2	August 6, 2026
4.4	Exchange Agreement, dated August 4, 2026, by and between the Registrant and HBC MSF Capital Solutions Blocker II LLC	Form 8-K	File No. 001-39291	4.3	August 6, 2026
4.5	Registration Rights Agreement dated August 4, 2026 by and between Eos Energy Enterprises, Inc. and CCM Frontier JV Holdco, LLC	Form 8-K	File No. 001-39291	4.4	August 6, 2026
4.6	Registration Rights Agreement dated August 4, 2026 by and between Eos Energy Enterprises, Inc. and HBC MSF Capital Solutions Blocker II LLC	Form 8-K	File No. 001-39291	4.5	August 6, 2026

Exhibit Number	Description of Document	Incorporated by Reference			
		Schedule/Form	File Number	Exhibits	Filing Date
10.1	Amended and Restated Limited Liability Company Agreement dated August 4, 2026 by and among Eos Energy Enterprises, Inc., CCM Frontier JV Holdco, LLC and HBC MSF Capital Solutions Blocker II LLC	Form 8-K	File No. 001-39291	10.1	August 6, 2026
10.2	Contribution and Warrants Issuance Agreement dated August 4, 2026 by and between Eos Energy Enterprises, Inc. and Frontier Power USA Parent, LLC	Form 8-K	File No. 001-39291	10.2	August 6, 2026
10.3	Side Letter dated August 4, 2026 by and between Eos Energy Enterprises, Inc., CCM Frontier JV Holdco, LLC, and Frontier Power USA Parent, LLC	Form 8-K	File No. 001-39291	10.3	August 6, 2026
10.4	Third Amendment to Loan Guarantee Agreement, dated August 4, 2026, by and between Eos Energy Enterprises, Inc. and the United States Department of Energy	Form 8-K	File No. 001-39291	10.4	August 6, 2026
10.5*	Separation Agreement, dated September 10, 2026, by and between Eos Energy Enterprises, Inc. and Nathan Kroeker				
31.1*	Certification of Chief Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				
31.2*	Certification of Chief Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				
32**	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.				
101.SCH	XBRL Taxonomy Extension Schema Document				
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document				
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document				
101.LAB	XBRL Taxonomy Extension Label Linkbase Document				
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document				

Exhibit Number	Description of Document	Incorporated by Reference			
		Schedule/Form	File Number	Exhibits	Filing Date
104	Cover page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)				

* Filed herewith.

** Furnished herewith.

Portions of this exhibit have been omitted pursuant to Item 601(b)(10) of Regulation S-K because they are both (i) not material and (ii) contain the type of information that the Company customarily and actually treats as private or confidential.

SIGNATURES

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

EOS ENERGY ENTERPRISES, INC.

Date: November 5, 2026

By: /s/ Joseph Mastrangelo
Name: Joseph Mastrangelo
Title: Chief Executive Officer and Director
(Principal Executive Officer)

Date: November 5, 2026

By: /s/ Alessandro Lagi
Name: Alessandro Lagi
Title: Chief Financial Officer
(Principal Financial Officer)

BY LAWS
OF
EOS ENERGY ENTERPRISES, INC.
(THE "CORPORATION")

Third Amended and Restated (Effective November 4, 2026)

Article I
OFFICES

Section 1.1 Registered Office. The registered office of the Corporation within the State of Delaware shall be located at either (a) the principal place of business of the Corporation in the State of Delaware or (b) the office of the corporation or individual acting as the Corporation's registered agent in Delaware.

Section 1.2 Additional Offices. The Corporation may, in addition to its registered office in the State of Delaware, have such other offices and places of business, both within and outside the State of Delaware, as the Board of Directors of the Corporation (the "Board") may from time to time determine or as the business and affairs of the Corporation may require.

Article II
STOCKHOLDERS MEETINGS

Section 2.1 Annual Meetings. The annual meeting of stockholders shall be held at such place, either within or without the State of Delaware, and time and on such date as shall be determined by the Board and stated in the notice of the meeting, provided that the Board may in its sole discretion determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication pursuant to Section 9.5(a). At each annual meeting, the stockholders entitled to vote on such matters shall elect those directors of the Corporation to fill any term of a directorship that expires on the date of such annual meeting and may transact any other business as may properly be brought before the meeting.

Section 2.2 Special Meetings. Subject to the rights of the holders of any outstanding series of the preferred stock of the Corporation ("Preferred Stock"), and to the requirements of applicable law, special meetings of stockholders, for any purpose or purposes, may be called only by the Chairman of the Board, Chief Executive Officer, or the Board pursuant to a resolution adopted by a majority of the Board, and may not be called by any other person. Special meetings of stockholders shall be held at such place, either within or without the State of Delaware, and at such time and on such date as shall be determined by the Board and stated in the Corporation's notice of the meeting, provided that the Board may in its sole discretion determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication pursuant to Section 9.5(a).

Section 2.3 Notices. Written notice of each stockholders meeting stating the place, if any, date, and time of the meeting, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting and the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, shall

be given in the manner permitted by Section 9.3 to each stockholder entitled to vote thereat as of the record date for determining the stockholders entitled to notice of the meeting, by the Corporation not less than 10 nor more than 60 days before the date of the meeting unless otherwise required by the General Corporation Law of the State of Delaware (the "DGCL"). If said notice is for a stockholders meeting other than an annual meeting, it shall in addition state the purpose or purposes for which the meeting is called, and the business transacted at such meeting shall be limited to the matters so stated in the Corporation's notice of meeting (or any supplement thereto). Any meeting of stockholders as to which notice has been given may be postponed, and any meeting of stockholders as to which notice has been given may be cancelled, by the Board upon public announcement (as defined in Section 2.7(c)) given before the date previously scheduled for such meeting.

Section 2.4 Quorum. Except as otherwise provided by applicable law, the Corporation's Certificate of Incorporation, as the same may be amended or restated from time to time (the "Certificate of Incorporation") or these By Laws, the presence, in person or by proxy, at a stockholders meeting of the holders of shares of outstanding capital stock of the Corporation representing a majority of the voting power of all outstanding shares of capital stock of the Corporation entitled to vote at such meeting shall constitute a quorum for the transaction of business at such meeting, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of shares representing a majority of the voting power of the outstanding shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. If a quorum shall not be present or represented by proxy at any meeting of the stockholders of the Corporation, the chairman of the meeting may adjourn the meeting from time to time in the manner provided in Section 2.6 until a quorum shall attend. The stockholders present at a duly convened meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Shares of its own stock belonging to the Corporation or to another corporation, if a majority of the voting power of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation or any such other corporation to vote shares held by it in a fiduciary capacity.

Section 2.5 Voting of Shares.

(a) **Voting Lists.** The Secretary of the Corporation (the "Secretary") shall prepare, or shall cause the officer or agent who has charge of the stock ledger of the Corporation to prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders of record entitled to vote at such meeting; provided, however, that if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date, arranged in alphabetical order and showing the address and the number and class of shares registered in the name of each stockholder. Nothing contained in this Section 2.5(a) shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to

make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If a meeting of stockholders is to be held solely by means of remote communication as permitted by Section 9.5(a), the list shall be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of meeting. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list required by this Section 2.5(a) or to vote in person or by proxy at any meeting of stockholders.

(b) **Manner of Voting.** At any stockholders meeting, every stockholder entitled to vote may vote in person or by proxy. If authorized by the Board, the voting by stockholders or proxy holders at any meeting conducted by remote communication may be effected by a ballot submitted by electronic transmission (as defined in Section 9.3), provided that any such electronic transmission must either set forth or be submitted with information from which the Corporation can determine that the electronic transmission was authorized by the stockholder or proxy holder. The Board, in its discretion, or the chairman of the meeting of stockholders, in such person's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

(c) **Proxies.** Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Proxies need not be filed with the Secretary until the meeting is called to order, but shall be filed with the Secretary before being voted. Without limiting the manner in which a stockholder may authorize another person or persons to act for such stockholder as proxy, either of the following shall constitute a valid means by which a stockholder may grant such authority. No stockholder shall have cumulative voting rights.

(i) A stockholder may execute a writing authorizing another person or persons to act for such stockholder as proxy. Execution may be accomplished by the stockholder or such stockholder's authorized officer, director, employee or agent signing such writing or causing such person's signature to be affixed to such writing by any reasonable means, including, but not limited to, by facsimile signature.

(ii) A stockholder may authorize another person or persons to act for such stockholder as proxy by transmitting or authorizing the transmission of an electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission authorizing another person or persons to act as proxy for a stockholder may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used; provided that such copy,

facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

(d) **Required Vote.** Subject to the rights of the holders of one or more series of Preferred Stock, voting separately by class or series, to elect directors pursuant to the terms of one or more series of Preferred Stock, at all meetings of stockholders at which a quorum is present, the election of directors shall be determined by a plurality of the votes cast. All other matters presented to the stockholders at a meeting at which a quorum is present shall be determined by the vote of a majority of the votes cast, unless the matter is one upon which, by applicable law, the Certificate of Incorporation, these By Laws or applicable stock exchange rules, a different vote is required, in which case such provision shall govern and control the decision of such matter.

(e) **Inspectors of Election.** The Board may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more persons as inspectors of election, who may be employees of the Corporation or otherwise serve the Corporation in other capacities, to act at such meeting of stockholders or any adjournment thereof and to make a written report thereof. The Board may appoint one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspectors of election or alternates are appointed by the Board, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall ascertain and report the number of outstanding shares and the voting power of each; determine the number of shares present in person or represented by proxy at the meeting and the validity of proxies and ballots; count all votes and ballots and report the results; determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors; and certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. No person who is a candidate for an office at an election may serve as an inspector at such election. Each report of an inspector shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors.

Section 2.6 Adjournments. Any meeting of stockholders, annual or special, may be adjourned by the chairman of the meeting, from time to time, whether or not there is a quorum, to reconvene at the same or some other place. Notice need not be given of any such adjourned meeting if the date, time, and place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the stockholders, or the holders of any class or series of stock entitled to vote separately as a class, as the case may be, may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for notice of such adjourned meeting in accordance with Section 9.2, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

Section 2.7 Advance Notice for Business.

(a) **Annual Meetings of Stockholders.** No business may be transacted at an annual meeting of stockholders, other than business that is either (i) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board, (ii) otherwise properly brought before the annual meeting by or at the direction of the Board or (iii) otherwise properly brought before the annual meeting by any stockholder of the Corporation (x) who is a stockholder of record entitled to vote at such annual meeting on the date of the giving of the notice provided for in this Section 2.7(a) and on the record date for the determination of stockholders entitled to vote at such annual meeting and (y) who complies with the notice procedures set forth in this Section 2.7(a). Notwithstanding anything in this Section 2.7(a) to the contrary, only persons nominated for election as a director to fill any term of a directorship that expires on the date of the annual meeting pursuant to Section 3.2 will be considered for election at such meeting.

(i) In addition to any other applicable requirements, for business (other than nominations) to be properly brought before an annual meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary and such business must otherwise be a proper matter for stockholder action. Subject to Section 2.7(a)(iii), a stockholder's notice to the Secretary with respect to such business, to be timely, must be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 90th day nor earlier than the opening of business on the 120th day before the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that in the event that the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the 120th day before the meeting and not later than the later of (x) the close of business on the 90th day before the meeting or (y) the close of business on the 10th day following the day on which public announcement of the date of the annual meeting is first made by the Corporation. The public announcement of an adjournment or postponement of an annual meeting shall not commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 2.7(a).

(ii) To be in proper written form, a stockholder's notice to the Secretary with respect to any business (other than nominations) must set forth as to each such matter such stockholder proposes to bring before the annual meeting (A) a brief description of the business desired to be brought before the annual meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event such business includes a proposal to amend these By Laws, the language of the proposed amendment) and the reasons for conducting such business at the annual meeting, (B) the name and record address of such stockholder and the name and address of the beneficial owner, if any, on whose behalf the proposal is made, (C) the class or series and number of shares of capital stock of the Corporation that are owned beneficially and of record by such stockholder and by the beneficial owner, if any, on whose behalf the proposal is made, (D) a description of all arrangements or understandings between such stockholder and the beneficial owner, if any, on whose behalf the proposal is made and any other person or persons (including their names) in connection with the proposal of such business by such stockholder, (E) any material interest of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made in such business and (F) a representation that such

stockholder (or a qualified representative of such stockholder) intends to appear in person or by proxy at the annual meeting to bring such business before the meeting.

(iii) The foregoing notice requirements of this Section 2.7(a) shall be deemed satisfied by a stockholder as to any proposal (other than nominations) if the stockholder has notified the Corporation of such stockholder's intention to present such proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and such stockholder has complied with the requirements of such Rule for inclusion of such proposal in a proxy statement prepared by the Corporation to solicit proxies for such annual meeting. No business shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 2.7(a), provided, however, that once business has been properly brought before the annual meeting in accordance with such procedures, nothing in this Section 2.7(a) shall be deemed to preclude discussion by any stockholder of any such business. If the Board or the chairman of the annual meeting determines that any stockholder proposal was not made in accordance with the provisions of this Section 2.7(a) or that the information provided in a stockholder's notice does not satisfy the information requirements of this Section 2.7(a), such proposal shall not be presented for action at the annual meeting. Notwithstanding the foregoing provisions of this Section 2.7(a), if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the Corporation to present the proposed business, such proposed business shall not be transacted, notwithstanding that proxies in respect of such matter may have been received by the Corporation.

(iv) In addition to the provisions of this Section 2.7(a), a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 2.7(a) shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(b) **Special Meetings of Stockholders.** Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting only pursuant to Section 3.2.

(c) **Public Announcement.** For purposes of these By Laws, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act (or any successor thereto).

Section 2.8 Conduct of Meetings. The chairman of each annual and special meeting of stockholders shall be the Chairman of the Board or, in the absence (or inability or refusal to act) of the Chairman of the Board, the Chief Executive Officer (if he or she shall be a director) or, in the absence (or inability or refusal to act) of the Chief Executive Officer or if the Chief Executive Officer is not a director, the President (if he or she shall be a director) or, in the absence (or inability or refusal to act) of the President or if the President is not a director, such other person as shall be

appointed by the Board. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the chairman of the meeting. The Board may adopt such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with these By Laws or such rules and regulations as adopted by the Board, the chairman of any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the chairman of the meeting, may include, without limitation, the following: (a) the establishment of an agenda or order of business for the meeting; (b) rules and procedures for maintaining order at the meeting and the safety of those present; (c) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (d) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (e) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure. The secretary of each annual and special meeting of stockholders shall be the Secretary or, in the absence (or inability or refusal to act) of the Secretary, an Assistant Secretary so appointed to act by the chairman of the meeting. In the absence (or inability or refusal to act) of the Secretary and all Assistant Secretaries, the chairman of the meeting may appoint any person to act as secretary of the meeting.

Section 2.9 Action Without Meeting. No action shall be taken by the stockholders except at an annual or special meeting of stockholders called in accordance with these Bylaws. Except as otherwise provided in the Certificate of Incorporation, no action shall be taken by the stockholders by written consent or by electronic transmission.

Article III
DIRECTORS

Section 3.1 Powers; Number. The business and affairs of the Corporation shall be managed by or under the direction of the Board, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By Laws required to be exercised or done by the stockholders. Directors need not be stockholders or residents of the State of Delaware. Subject to the Certificate of Incorporation, the number of directors shall be fixed exclusively by resolution of the Board.

Section 3.2 Advance Notice for Nomination of Directors.

(a) Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation, except as may be otherwise provided by the terms of one or more series of Preferred Stock with respect to the rights of holders of one or more series of Preferred Stock to elect directors. Nominations of persons for election to the Board at any annual meeting of stockholders, or at any special meeting of stockholders called for the purpose of electing directors as set forth in the Corporation's notice of such special meeting, may be made (i) by or at the direction of the Board or (ii) by any stockholder of the Corporation (x) who is a stockholder of record entitled to vote in the election of directors on the date of the giving of the

notice provided for in this Section 3.2 and on the record date for the determination of stockholders entitled to vote at such meeting and (y) who complies with the notice procedures set forth in this Section 3.2.

(b) In addition to any other applicable requirements, for a nomination to be made by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary. To be timely, a stockholder's notice to the Secretary must be received by the Secretary at the principal executive offices of the Corporation (i) in the case of an annual meeting, not later than the close of business on the 90th day nor earlier than the close of business on the 120th day before the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that in the event that the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder to be timely must be so received not earlier than the close of business on the 120th day before the meeting and not later than the later of (x) the close of business on the 90th day before the meeting or (y) the close of business on the 10th day following the day on which public announcement of the date of the annual meeting was first made by the Corporation; and (ii) in the case of a special meeting of stockholders called for the purpose of electing directors, not later than the close of business on the 10th day following the day on which public announcement of the date of the special meeting is first made by the Corporation. In no event shall the public announcement of an adjournment or postponement of an annual meeting or special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 3.2.

(c) Notwithstanding anything in paragraph (b) to the contrary, in the event that the number of directors to be elected to the Board at an annual meeting is greater than the number of directors whose terms expire on the date of the annual meeting and there is no public announcement by the Corporation naming all of the nominees for the additional directors to be elected or specifying the size of the increased Board before the close of business on the 90th day prior to the anniversary date of the immediately preceding annual meeting of stockholders, a stockholder's notice required by this Section 3.2 shall also be considered timely, but only with respect to nominees for the additional directorships created by such increase that are to be filled by election at such annual meeting, if it shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the date on which such public announcement was first made by the Corporation.

(d) To be in proper written form, a stockholder's notice to the Secretary must set forth (i) as to each person whom the stockholder proposes to nominate for election as a director (A) the name, age, business address and residence address of the person, (B) the principal occupation or employment of the person, (C) the class or series and number of shares of capital stock of the Corporation that are owned beneficially or of record by the person and (D) any other information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder; and (ii) as to the stockholder giving the notice (A) the name and record address of such stockholder as they appear on the Corporation's books and the name and address of the beneficial owner, if any, on whose behalf the nomination is made, (B) the class or series and number of shares of capital stock of the Corporation that are owned beneficially and of record by such stockholder and the beneficial owner, if any, on whose behalf the nomination is made, (C) a description of all arrangements or understandings relating to the nomination to be made by such stockholder among such stockholder,

the beneficial owner, if any, on whose behalf the nomination is made, each proposed nominee and any other person or persons (including their names), (D) a representation that such stockholder (or a qualified representative of such stockholder) intends to appear in person or by proxy at the meeting to nominate the persons named in its notice and (E) any other information relating to such stockholder and the beneficial owner, if any, on whose behalf the nomination is made that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. Such notice must be accompanied by a written consent of each proposed nominee to being named as a nominee and to serve as a director if elected.

(e) If the Board or the chairman of the meeting of stockholders determines that any nomination was not made in accordance with the provisions of this Section 3.2, or that the information provided in a stockholder's notice does not satisfy the information requirements of this Section 3.2, then such nomination shall not be considered at the meeting in question. Notwithstanding the foregoing provisions of this Section 3.2 if the stockholder (or a qualified representative of the stockholder) does not appear at the meeting of stockholders of the Corporation to present the nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such nomination may have been received by the Corporation.

(f) In addition to the provisions of this Section 3.2, a stockholder shall also comply with all of the applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 3.2 shall be deemed to affect any rights of the holders of Preferred Stock to elect directors pursuant to the Certificate of Incorporation.

Section 3.3 Compensation. Unless otherwise restricted by the Certificate of Incorporation or these By Laws, the Board shall have the authority to fix the compensation of directors, including for service on a committee of the Board, and may be paid either a fixed sum for attendance at each meeting of the Board or other compensation as director. The directors may be reimbursed their expenses, if any, of attendance at each meeting of the Board. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of committees of the Board may be allowed like compensation and reimbursement of expenses for service on the committee.

Article IV
BOARD MEETINGS

Section 4.1 Annual Meetings. The Board shall meet as soon as practicable after the adjournment of each annual stockholders meeting at the place of the annual stockholders meeting unless the Board shall fix another time and place and give notice thereof in the manner required herein for special meetings of the Board. No notice to the directors shall be necessary to legally convene this meeting, except as provided in this Section 4.1.

Section 4.2 Regular Meetings. Regularly scheduled, periodic meetings of the Board may be held without notice at such times, dates and places (within or without the State of Delaware) as shall from time to time be determined by the Board.

Section 4.3 Special Meetings. Special meetings of the Board (a) may be called by the Chairman of the Board or President and (b) shall be called by the Chairman of the Board, President or Secretary on the written request of at least a majority of directors then in office, or the sole director, as the case may be, and shall be held at such time, date and place (within or without the State of Delaware) as may be determined by the person calling the meeting or, if called upon the request of directors or the sole director, as specified in such written request. Notice of each special meeting of the Board shall be given, as provided in Section 9.3, to each director (i) at least 24 hours before the meeting if such notice is oral notice given personally or by telephone or written notice given by hand delivery or by means of a form electronic transmission and delivery; (ii) at least two days before the meeting if such notice is sent by a nationally recognized overnight delivery service; and (iii) at least five days before the meeting if such notice is sent through the United States mail. If the Secretary shall fail or refuse to give such notice, then the notice may be given by the officer who called the meeting or the directors who requested the meeting. Any and all business that may be transacted at a regular meeting of the Board may be transacted at a special meeting. Except as may be otherwise expressly provided by applicable law, the Certificate of Incorporation, or these By Laws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in the notice or waiver of notice of such meeting. A special meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 9.4.

Section 4.4 Quorum; Required Vote. A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by applicable law, the Certificate of Incorporation or these By Laws. If a quorum shall not be present at any meeting, a majority of the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Section 4.5 Consent In Lieu of Meeting. Unless otherwise restricted by the Certificate of Incorporation or these By Laws, any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions (or paper reproductions thereof) are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 4.6 Organization. The chairman of each meeting of the Board shall be the Chairman of the Board or, in the absence (or inability or refusal to act) of the Chairman of the Board, the Chief Executive Officer (if he or she shall be a director) or, in the absence (or inability or refusal to act) of the Chief Executive Officer or if the Chief Executive Officer is not a director, the President (if he or she shall be a director) or in the absence (or inability or refusal to act) of the President or if the President is not a director, a chairman elected from the directors present. The Secretary shall act as secretary of all meetings of the Board. In the absence (or inability or refusal to act) of the Secretary, an Assistant Secretary shall perform the duties of the Secretary at such meeting. In the absence (or inability or refusal to act) of the Secretary and all Assistant Secretaries, the chairman of the meeting may appoint any person to act as secretary of the meeting.

Article V
COMMITTEES OF DIRECTORS

Section 5.1 Establishment. The Board may by resolution of the Board designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Each committee shall keep regular minutes of its meetings and report the same to the Board when required by the resolution designating such committee. The Board shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve any such committee.

Section 5.2 Available Powers. Any committee established pursuant to Section 5.1 hereof, to the extent permitted by applicable law and by resolution of the Board, shall have and may exercise all of the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it.

Section 5.3 Alternate Members. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of any such absent or disqualified member.

Section 5.4 Procedures. Unless the Board otherwise provides, the time, date, place, if any, and notice of meetings of a committee shall be determined by such committee. At meetings of a committee, a majority of the number of members of the committee (but not including any alternate member, unless such alternate member has replaced any absent or disqualified member at the time of, or in connection with, such meeting) shall constitute a quorum for the transaction of business. The act of a majority of the members present at any meeting at which a quorum is present shall be the act of the committee, except as otherwise specifically provided by applicable law, the Certificate of Incorporation, these By Laws or the Board. If a quorum is not present at a meeting of a committee, the members present may adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a quorum is present. Unless the Board otherwise provides and except as provided in these By Laws, each committee designated by the Board may make, alter, amend and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board is authorized to conduct its business pursuant to Article III and Article IV of these By Laws.

Article VI
OFFICERS

Section 6.1 Officers. The officers of the Corporation elected by the Board shall be a Chief Executive Officer, a Chief Financial Officer, a Secretary and such other officers (including without limitation, a Chairman of the Board, Presidents, Vice Presidents, Partners, Managing Directors, Senior Managing Directors, Assistant Secretaries and a Treasurer) as the Board from time to time may determine. Officers elected by the Board shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article VI. Such officers shall also have such powers and duties as from time to time may be conferred by the Board. The Chief Executive Officer or President may also appoint such other officers (including without

limitation one or more Vice Presidents and Controllers) as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers shall have such powers and duties and shall hold their offices for such terms as may be provided in these By Laws or as may be prescribed by the Board or, if such officer has been appointed by the Chief Executive Officer or President, as may be prescribed by the appointing officer.

(a) **Chairman of the Board.** The Chairman of the Board shall preside when present at all meetings of the stockholders and the Board. The Chairman of the Board shall perform such other duties as may be assigned by the Board. In the absence (or inability or refusal to act) of the Chairman of the Board, the Chief Executive Officer (if he or she shall be a director) shall preside when present at all meetings of the stockholders and the Board. The powers and duties of the Chairman of the Board shall not include supervision or control of the preparation of the financial statements of the Corporation (other than through participation as a member of the Board). The position of Chairman of the Board and Chief Executive Officer may be held by the same person.

(b) **Chief Executive Officer.** The Chief Executive Officer shall be the chief executive officer of the Corporation, shall have general supervision of the affairs of the Corporation and general control of all of its business subject to the ultimate authority of the Board, and shall be responsible for the execution of the policies of the Board with respect to such matters, except to the extent any such powers and duties have been prescribed to the Chairman of the Board pursuant to Section 6.1(a) above. In the absence (or inability or refusal to act) of the Chairman of the Board, the Chief Executive Officer (if he or she shall be a director) shall preside when present at all meetings of the stockholders and the Board. The position of Chief Executive Officer and President may be held by the same person.

(c) **President.** The President shall have such powers and duties as may be assigned from time to time by the Board or the Chief Executive Officer. In the absence (or inability or refusal to act) of the Chairman of the Board and Chief Executive Officer, the President (if he or she shall be a director) shall preside when present at all meetings of the stockholders and the Board. The President shall also perform such duties and have such powers as shall be designated by the Board. The position of President and Chief Executive Officer may be held by the same person.

(d) **Vice Presidents.** In the absence (or inability or refusal to act) of the President, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated by the Board) shall perform the duties and have the powers of the President. Any one or more of the Vice Presidents may be given an additional designation of rank or function.

(e) **Secretary.**

(i) The Secretary shall attend all meetings of the stockholders, the Board and (as required) committees of the Board and shall record the proceedings of such meetings in books to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board and shall perform such other duties as may be prescribed by the Board, the Chairman of the Board, Chief Executive Officer or President. The Secretary shall have custody of the corporate seal of the Corporation and the Secretary, or any Assistant Secretary, shall have authority to affix the same to any instrument requiring it, and when so affixed, it may be attested by his or her signature or by the signature of such Assistant Secretary. The Board may give general

authority to any other officer to affix the seal of the Corporation and to attest the affixing thereof by his or her signature.

(ii) The Secretary shall keep, or cause to be kept, at the principal executive office of the Corporation or at the office of the Corporation's transfer agent or registrar, if one has been appointed, a stock ledger, or duplicate stock ledger, showing the names of the stockholders and their addresses, the number and classes of shares held by each and, with respect to certificated shares, the number and date of certificates issued for the same and the number and date of certificates cancelled.

(f) **Assistant Secretaries.** The Assistant Secretary or, if there be more than one, the Assistant Secretaries in the order determined by the Board shall, in the absence (or inability or refusal to act) of the Secretary, perform the duties and have the powers of the Secretary.

(g) **Chief Financial Officer.** The Chief Financial Officer shall perform all duties commonly incident to that office (including, without limitation, the care and custody of the funds and securities of the Corporation, which from time to time may come into the Chief Financial Officer's hands and the deposit of the funds of the Corporation in such banks or trust companies as the Board, the Chief Executive Officer or the President may authorize).

(h) **Treasurer.** The Treasurer shall, in the absence (or inability or refusal to act) of the Chief Financial Officer, perform the duties and exercise the powers of the Chief Financial Officer.

Section 6.2 Term of Office; Removal; Vacancies. The elected officers of the Corporation shall be appointed by the Board and shall hold office until their successors are duly elected and qualified by the Board or until their earlier death, resignation, retirement, disqualification, or removal from office. Any officer may be removed, with or without cause, at any time by the Board. Any officer appointed by the Chief Executive Officer or President may also be removed, with or without cause, by the Chief Executive Officer or President, as the case may be, unless the Board otherwise provides. Any vacancy occurring in any elected office of the Corporation may be filled by the Board. Any vacancy occurring in any office appointed by the Chief Executive Officer or President may be filled by the Chief Executive Officer, or President, as the case may be, unless the Board then determines that such office shall thereupon be elected by the Board, in which case the Board shall elect such officer.

Section 6.3 Other Officers. The Board may delegate the power to appoint such other officers and agents, and may also remove such officers and agents or delegate the power to remove same, as it shall from time to time deem necessary or desirable.

Section 6.4 Multiple Officeholders; Stockholder and Director Officers. Any number of offices may be held by the same person unless the Certificate of Incorporation or these By Laws otherwise provide. Officers need not be stockholders or residents of the State of Delaware.

Article VII
SHARES

Section 7.1 Certificated and Uncertificated Shares. The shares of the Corporation may be certificated or uncertificated, subject to the sole discretion of the Board and the requirements of the DGCL.

Section 7.2 Multiple Classes of Stock. If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the Corporation shall (a) cause the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights to be set forth in full or summarized on the face or back of any certificate that the Corporation issues to represent shares of such class or series of stock or (b) in the case of uncertificated shares, within a reasonable time after the issuance or transfer of such shares, send to the registered owner thereof a written notice containing the information required to be set forth on certificates as specified in clause (a) above; provided, however, that, except as otherwise provided by applicable law, in lieu of the foregoing requirements, there may be set forth on the face or back of such certificate or, in the case of uncertificated shares, on such written notice a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights.

Section 7.3 Signatures. Each certificate representing capital stock of the Corporation shall be signed by or in the name of the Corporation by (a) the Chairman of the Board, Chief Executive Officer, the President or a Vice President and (b) the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of the Corporation. Any or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, such certificate may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar on the date of issue.

Section 7.4 Consideration and Payment for Shares.

(a) Subject to applicable law and the Certificate of Incorporation, shares of stock may be issued for such consideration, having in the case of shares with par value a value not less than the par value thereof, and to such persons, as determined from time to time by the Board. The consideration may consist of any tangible or intangible property or any benefit to the Corporation including cash, promissory notes, services performed, contracts for services to be performed or other securities, or any combination thereof.

(b) Subject to applicable law and the Certificate of Incorporation, shares may not be issued until the full amount of the consideration has been paid, unless upon the face or back of each certificate issued to represent any partly paid shares of capital stock or upon the books and records of the Corporation in the case of partly paid uncertificated shares, there shall have been set forth the total amount of the consideration to be paid therefor and the amount paid thereon up to and including the time said certificate representing certificated shares or said uncertificated shares are issued.

Section 7.5 Lost, Destroyed or Wrongfully Taken Certificates.

(a) If an owner of a certificate representing shares claims that such certificate has been lost, destroyed or wrongfully taken, the Corporation shall issue a new certificate representing such shares or such shares in uncertificated form if the owner: (i) requests such a new certificate before the Corporation has notice that the certificate representing such shares has been acquired by a

protected purchaser; (ii) if requested by the Corporation, delivers to the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, wrongful taking or destruction of such certificate or the issuance of such new certificate or uncertificated shares; and (iii) satisfies other reasonable requirements imposed by the Corporation.

(b) If a certificate representing shares has been lost, apparently destroyed or wrongfully taken, and the owner fails to notify the Corporation of that fact within a reasonable time after the owner has notice of such loss, apparent destruction or wrongful taking and the Corporation registers a transfer of such shares before receiving notification, the owner shall be precluded from asserting against the Corporation any claim for registering such transfer or a claim to a new certificate representing such shares or such shares in uncertificated form.

Section 7.6 Transfer of Stock.

(a) If a certificate representing shares of the Corporation is presented to the Corporation with an endorsement requesting the registration of transfer of such shares or an instruction is presented to the Corporation requesting the registration of transfer of uncertificated shares, the Corporation shall register the transfer as requested if:

(i) in the case of certificated shares, the certificate representing such shares has been surrendered;

(ii) (A) with respect to certificated shares, the endorsement is made by the person specified by the certificate as entitled to such shares; (B) with respect to uncertificated shares, an instruction is made by the registered owner of such uncertificated shares; or (C) with respect to certificated shares or uncertificated shares, the endorsement or instruction is made by any other appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

(iii) the Corporation has received a guarantee of signature of the person signing such endorsement or instruction or such other reasonable assurance that the endorsement or instruction is genuine and authorized as the Corporation may request;

(iv) the transfer does not violate any restriction on transfer imposed by the Corporation that is enforceable in accordance with Section 7.8(a); and

(v) such other conditions for such transfer as shall be provided for under applicable law have been satisfied.

(b) Whenever any transfer of shares shall be made for collateral security and not absolutely, the Corporation shall so record such fact in the entry of transfer if, when the certificate for such shares is presented to the Corporation for transfer or, if such shares are uncertificated, when the instruction for registration of transfer thereof is presented to the Corporation, both the transferor and transferee request the Corporation to do so.

Section 7.7 Registered Stockholders. Before due presentment for registration of transfer of a certificate representing shares of the Corporation or of an instruction requesting registration of transfer of uncertificated shares, the Corporation may treat the registered owner as the person exclusively entitled to inspect for any proper purpose the stock ledger and the other books and records of the Corporation, vote such shares, receive dividends or notifications with respect to such

shares and otherwise exercise all the rights and powers of the owner of such shares, except that a person who is the beneficial owner of such shares (if held in a voting trust or by a nominee on behalf of such person) may, upon providing documentary evidence of beneficial ownership of such shares and satisfying such other conditions as are provided under applicable law, may also so inspect the books and records of the Corporation.

Section 7.8 Effect of the Corporation's Restriction on Transfer.

(a) A written restriction on the transfer or registration of transfer of shares of the Corporation or on the amount of shares of the Corporation that may be owned by any person or group of persons, if permitted by the DGCL and noted conspicuously on the certificate representing such shares or, in the case of uncertificated shares, contained in a notice, offering circular or prospectus sent by the Corporation to the registered owner of such shares within a reasonable time prior to or after the issuance or transfer of such shares, may be enforced against the holder of such shares or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder.

(b) A restriction imposed by the Corporation on the transfer or the registration of shares of the Corporation or on the amount of shares of the Corporation that may be owned by any person or group of persons, even if otherwise lawful, is ineffective against a person without actual knowledge of such restriction unless: (i) the shares are certificated and such restriction is noted conspicuously on the certificate; or (ii) the shares are uncertificated and such restriction was contained in a notice, offering circular or prospectus sent by the Corporation to the registered owner of such shares within a reasonable time prior to or after the issuance or transfer of such shares.

Section 7.9 Regulations. The Board shall have power and authority to make such additional rules and regulations, subject to any applicable requirement of law, as the Board may deem necessary and appropriate with respect to the issue, transfer or registration of transfer of shares of stock or certificates representing shares. The Board may appoint one or more transfer agents or registrars and may require for the validity thereof that certificates representing shares bear the signature of any transfer agent or registrar so appointed.

Article VIII
INDEMNIFICATION

Section 8.1 Right to Indemnification. To the fullest extent permitted by applicable law, as the same exists or may hereafter be amended, the Corporation shall indemnify and hold harmless each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, other enterprise or nonprofit entity, including service with respect to an employee benefit plan (hereinafter an "Indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent, or in any other capacity while serving as a director, officer, employee or agent,

against all liability and loss suffered and expenses (including, without limitation, attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred by such Indemnitee in connection with such proceeding; provided, however, that, except as provided in Section 8.3 with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify an Indemnitee in connection with a proceeding (or part thereof) initiated by such Indemnitee only if such proceeding (or part thereof) was authorized by the Board.

Section 8.2 Right to Advancement of Expenses. In addition to the right to indemnification conferred in Section 8.1, an Indemnitee shall also have the right to be paid by the Corporation to the fullest extent not prohibited by applicable law the expenses (including, without limitation, attorneys' fees) incurred in defending or otherwise participating in any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that, if the DGCL requires, an advancement of expenses incurred by an Indemnitee in his or her capacity as a director or officer of the Corporation (and not in any other capacity in which service was or is rendered by such Indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon the Corporation's receipt of an undertaking (hereinafter an "undertaking"), by or on behalf of such Indemnitee, to repay all amounts so advanced if it shall ultimately be determined that such Indemnitee is not entitled to be indemnified under this Article VIII or otherwise.

Section 8.3 Right of Indemnitee to Bring Suit. If a claim under Section 8.1 or Section 8.2 is not paid in full by the Corporation within 60 days after a written claim therefor has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be 20 days, the Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Indemnitee shall also be entitled to be paid the expense of prosecuting or defending such suit. In (a) any suit brought by the Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by an Indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (b) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that, the Indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including a determination by its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the Indemnitee has not met such applicable standard of conduct, shall create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, shall be a defense to such suit. In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VIII or otherwise shall be on the Corporation.

Section 8.4 Non-Exclusivity of Rights. The rights provided to any Indemnitee pursuant to this Article VIII shall not be exclusive of any other right, which such Indemnitee may have or hereafter acquire under applicable law, the Certificate of Incorporation, these By Laws, an agreement, a vote of stockholders or disinterested directors, or otherwise.

Section 8.5 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and/or any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Section 8.6 Indemnification of Other Persons. This Article VIII shall not limit the right of the Corporation to the extent and in the manner authorized or permitted by law to indemnify and to advance expenses to persons other than Indemnitees. Without limiting the foregoing, the Corporation may, to the extent authorized from time to time by the Board, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation and to any other person who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan, to the fullest extent of the provisions of this Article VIII with respect to the indemnification and advancement of expenses of Indemnitees under this Article VIII.

Section 8.7 Amendments. Any repeal or amendment of this Article VIII by the Board or the stockholders of the Corporation or by changes in applicable law, or the adoption of any other provision of these By Laws inconsistent with this Article VIII, will, to the extent permitted by applicable law, be prospective only (except to the extent such amendment or change in applicable law permits the Corporation to provide broader indemnification rights to Indemnitees on a retroactive basis than permitted prior thereto), and will not in any way diminish or adversely affect any right or protection existing hereunder in respect of any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision; provided however, that amendments or repeals of this Article VIII shall require the affirmative vote of the stockholders holding at least 66.7% of the voting power of all outstanding shares of capital stock of the Corporation.

Section 8.8 Certain Definitions. For purposes of this Article VIII, (a) references to "other enterprise" shall include any employee benefit plan; (b) references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; (c) references to "serving at the request of the Corporation" shall include any service that imposes duties on, or involves services by, a person with respect to any employee benefit plan, its participants, or beneficiaries; and (d) a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interest of the Corporation" for purposes of Section 145 of the DGCL.

Section 8.9 Contract Rights. The rights provided to Indemnitees pursuant to this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a director, officer, agent or employee and shall inure to the benefit of the Indemnitee's heirs, executors and administrators.

Section 8.10 Severability. If any provision or provisions of this Article VIII shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Article VIII shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Article VIII (including, without limitation, each such portion of this Article VIII containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

Article IX
MISCELLANEOUS

Section 9.1 Place of Meetings. If the place of any meeting of stockholders, the Board or committee of the Board for which notice is required under these By Laws is not designated in the notice of such meeting, such meeting shall be held at the principal business office of the Corporation; provided, however, if the Board has, in its sole discretion, determined that a meeting shall not be held at any place, but instead shall be held by means of remote communication pursuant to Section 9.5 hereof, then such meeting shall not be held at any place.

Section 9.2 Fixing Record Dates.

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the business day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this Section 9.2(a) at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

Section 9.3 Means of Giving Notice.

(a) **Notice to Directors.** Whenever under applicable law, the Certificate of Incorporation or these By Laws notice is required to be given to any director, such notice shall be given either (i) in writing and sent by mail, or by a nationally recognized delivery service, (ii) by means of facsimile telecommunication or other form of electronic transmission, or (iii) by oral notice given personally or by telephone. A notice to a director will be deemed given as follows: (i) if given by hand delivery, orally, or by telephone, when actually received by the director, (ii) if sent through the United States mail, when deposited in the United States mail, with postage and fees thereon prepaid, addressed to the director at the director's address appearing on the records of the Corporation, (iii) if sent for next day delivery by a nationally recognized overnight delivery service, when deposited with such service, with fees thereon prepaid, addressed to the director at the director's address appearing on the records of the Corporation, (iv) if sent by facsimile telecommunication, when sent to the facsimile transmission number for such director appearing on the records of the Corporation, (v) if sent by electronic mail, when sent to the electronic mail address for such director appearing on the records of the Corporation, or (vi) if sent by any other form of electronic transmission, when sent to the address, location or number (as applicable) for such director appearing on the records of the Corporation.

(b) **Notice to Stockholders.** Whenever under applicable law, the Certificate of Incorporation or these By Laws notice is required to be given to any stockholder, such notice may be given (i) in writing and sent either by hand delivery, through the United States mail, or by a nationally recognized overnight delivery service for next day delivery, or (ii) by means of a form of electronic transmission consented to by the stockholder, to the extent permitted by, and subject to the conditions set forth in Section 232 of the DGCL. A notice to a stockholder shall be deemed given as follows: (i) if given by hand delivery, when actually received by the stockholder, (ii) if sent through the United States mail, when deposited in the United States mail, with postage and fees thereon prepaid, addressed to the stockholder at the stockholder's address appearing on the stock ledger of the Corporation, (iii) if sent for next day delivery by a nationally recognized overnight delivery service, when deposited with such service, with fees thereon prepaid, addressed to the stockholder at the stockholder's address appearing on the stock ledger of the Corporation, and (iv) if given by a form of electronic transmission consented to by the stockholder to whom the notice is given and otherwise meeting the requirements set forth above, (A) if by facsimile transmission, when directed to a number at which the stockholder has consented to receive notice, (B) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice, (C) if by a posting on an electronic network together with separate notice to the stockholder of such specified posting, upon the later of (1) such posting and (2) the giving of such separate notice, and (D) if by any other form of electronic transmission, when directed to the stockholder. A stockholder may revoke such stockholder's consent to receiving notice by means of electronic communication by giving written notice of such revocation to the Corporation. Any such consent shall be deemed revoked if (1) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent and (2) such inability becomes known to the Secretary or an Assistant Secretary or to the Corporation's transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

(c) **Electronic Transmission.** "Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that

may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, including but not limited to transmission by telex, facsimile telecommunication, electronic mail, telegram and cablegram.

(d) **Notice to Stockholders Sharing Same Address.** Without limiting the manner by which notice otherwise may be given effectively by the Corporation to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these By Laws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. A stockholder may revoke such stockholder's consent by delivering written notice of such revocation to the Corporation. Any stockholder who fails to object in writing to the Corporation within 60 days of having been given written notice by the Corporation of its intention to send such a single written notice shall be deemed to have consented to receiving such single written notice.

(e) **Exceptions to Notice Requirements.** Whenever notice is required to be given, under the DGCL, the Certificate of Incorporation or these By Laws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting that shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Corporation is such as to require the filing of a certificate with the Secretary of State of Delaware, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

Whenever notice is required to be given by the Corporation, under any provision of the DGCL, the Certificate of Incorporation or these By Laws, to any stockholder to whom (1) notice of two consecutive annual meetings of stockholders and all notices of stockholder meetings or of the taking of action by written consent of stockholders without a meeting to such stockholder during the period between such two consecutive annual meetings, or (2) all, and at least two payments (if sent by first-class mail) of dividends or interest on securities during a 12-month period, have been mailed addressed to such stockholder at such stockholder's address as shown on the records of the Corporation and have been returned undeliverable, the giving of such notice to such stockholder shall not be required. Any action or meeting that shall be taken or held without notice to such stockholder shall have the same force and effect as if such notice had been duly given. If any such stockholder shall deliver to the Corporation a written notice setting forth such stockholder's then current address, the requirement that notice be given to such stockholder shall be reinstated. In the event that the action taken by the Corporation is such as to require the filing of a certificate with the Secretary of State of Delaware, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to Section 230(b) of the DGCL. The exception in subsection (1) of the first sentence of this paragraph to the requirement that notice be given shall not be applicable to any notice returned as undeliverable if the notice was given by electronic transmission.

Section 9.4 Waiver of Notice. Whenever any notice is required to be given under applicable law, the Certificate of Incorporation, or these By Laws, a written waiver of such notice, signed by the person or persons entitled to said notice, or a waiver by electronic transmission by the person entitled to said notice, whether before or after the time stated therein, shall be deemed

equivalent to such required notice. All such waivers shall be kept with the books of the Corporation. Attendance at a meeting shall constitute a waiver of notice of such meeting, except where a person attends for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

Section 9.5 Meeting Attendance via Remote Communication Equipment.

(a) **Stockholder Meetings.** If authorized by the Board in its sole discretion, and subject to such guidelines and procedures as the Board may adopt, stockholders entitled to vote at such meeting and proxy holders not physically present at a meeting of stockholders may, by means of remote communication:

(i) participate in a meeting of stockholders; and

(ii) be deemed present in person and vote at a meeting of stockholders, whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (A) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxy holder, (B) the Corporation shall implement reasonable measures to provide such stockholders and proxy holders a reasonable opportunity to participate in the meeting and, if entitled to vote, to vote on matters submitted to the applicable stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (C) if any stockholder or proxy holder votes or takes other action at the meeting by means of remote communication, a record of such votes or other action shall be maintained by the Corporation.

(b) **Board Meetings.** Unless otherwise restricted by applicable law, the Certificate of Incorporation or these By Laws, members of the Board or any committee thereof may participate in a meeting of the Board or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Such participation in a meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

Section 9.6 Dividends. The Board may from time to time declare, and the Corporation may pay, dividends (payable in cash, property or shares of the Corporation's capital stock) on the Corporation's outstanding shares of capital stock, subject to applicable law and the Certificate of Incorporation.

Section 9.7 Reserves. The Board may set apart out of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

Section 9.8 Contracts and Negotiable Instruments. Except as otherwise provided by applicable law, the Certificate of Incorporation or these By Laws, any contract, bond, deed, lease, mortgage or other instrument may be executed and delivered in the name and on behalf of the Corporation by such officer or officers or other employee or employees of the Corporation as the Board may from time to time authorize. Such authority may be general or confined to specific instances as the Board may determine. The Chairman of the Board, the Chief Executive Officer,

the President, the Chief Financial Officer, the Treasurer or any Vice President may execute and deliver any contract, bond, deed, lease, mortgage or other instrument in the name and on behalf of the Corporation. Subject to any restrictions imposed by the Board, the Chairman of the Board, Chief Executive Officer, President, the Chief Financial Officer, the Treasurer or any Vice President may delegate powers to execute and deliver any contract, bond, deed, lease, mortgage or other instrument in the name and on behalf of the Corporation to other officers or employees of the Corporation under such person's supervision and authority, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 9.9 Fiscal Year. The fiscal year of the Corporation shall be fixed by the Board.

Section 9.10 Seal. The Board may adopt a corporate seal, which shall be in such form as the Board determines. The seal may be used by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced.

Section 9.11 Books and Records. The books and records of the Corporation may be kept within or outside the State of Delaware at such place or places as may from time to time be designated by the Board.

Section 9.12 Resignation. Any director, committee member or officer may resign by giving notice thereof in writing or by electronic transmission to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. The resignation shall take effect at the time it is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 9.13 Surety Bonds. Such officers, employees and agents of the Corporation (if any) as the Chairman of the Board, Chief Executive Officer, President or the Board may direct, from time to time, shall be bonded for the faithful performance of their duties and for the restoration to the Corporation, in case of their death, resignation, retirement, disqualification or removal from office, of all books, papers, vouchers, money and other property of whatever kind in their possession or under their control belonging to the Corporation, in such amounts and by such surety companies as the Chairman of the Board, Chief Executive Officer, President or the Board may determine. The premiums on such bonds shall be paid by the Corporation and the bonds so furnished shall be in the custody of the Secretary.

Section 9.14 Securities of Other Corporations. Powers of attorney, proxies, waivers of notice of meeting, consents in writing and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the Chairman of the Board, Chief Executive Officer, President, any Vice President or any officers authorized by the Board. Any such officer, may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Corporation may own securities, or to consent in writing, in the name of the Corporation as such holder, to any action by such corporation, and at any such meeting or with respect to any such consent shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed. The Board may from time to time confer like powers upon any other person or persons.

Section 9.15 Amendments. The Board shall have the power to adopt, amend, alter or repeal the By Laws. The affirmative vote of a majority of the Board shall be required to adopt, amend, alter or repeal the By Laws. The By Laws also may be adopted, amended, altered or repealed by the stockholders; provided, however, that in addition to any vote of the holders of any class or series of capital stock of the Corporation required by applicable law or the Certificate of Incorporation, the affirmative vote of the holders of at least a majority of the voting power (except as otherwise provided in Section 8.7) of all outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders to adopt, amend, alter or repeal the By Laws.

SEPARATION AGREEMENT AND GENERAL RELEASE

This Separation Agreement and General Release (the "Agreement"), is entered into by **Nathan Kroeker**, on behalf of himself and his heirs, estate, executors, administrators, representatives, successors, and assigns (collectively, "Employee"), and **Eos Energy Storage LLC,** on behalf of itself and its former, present, and future parent corporations, stockholders, members, subsidiaries, and affiliates, and each of their respective former, present, and future directors, officers, members, managers, employees, agents, representatives, and insurers, and/or any other related entity (collectively, "Company") effective as of September _____, 2026. Employee and Company may also be referred to individually as a "Party," and/or collectively as the "Parties."

Background

The Parties' relationship is set forth in a January 20, 2023 Employment Agreement ("Employment Agreement") and per the terms of the Employment Agreement, on August 21, 2026, the Company provided Employee with a Notice of Termination.

The Parties desire, without any concession or admission of unlawful conduct, liability, fault or wrongdoing, to effect a full, complete, final and binding settlement and compromise of all disputes and/or issues that have been raised or could be raised by Employee arising out of or in any way related to Employee's employment with and/or separation from Company and/or any other fact or occurrence prior to the date this Agreement is signed.

Terms and Conditions

NOW THEREFORE, for good and valuable consideration, and intending to be legally bound, each Party hereby agrees to the following:

1. **Separation of Employment, Transition Date and On-Going Indemnity**:

(a) Effective as of August 24, 2026 (the "Transition Date"), Employee shall remain employed with the Company as a non-executive employee from the period beginning on the Transition Date and ending on October 20, 2026 with an October 21, 2026 date of separation (the "Separation Date"). During this time, Employee shall work with the Company's leadership to affect a smooth transition of responsibilities. Employee shall have no duties, responsibilities, or authority and shall not hold himself out after the Separation Date as an employee, agent or representative of the Company and shall have no authority to bind the Company or any of its affiliates in any manner.

(b) Effective as of the Transition Date, Employee hereby resigns from all positions held by Employee with the Company. Employee agrees to execute letters of resignation and/or other documents as may be required or requested by the Company and otherwise cooperate fully and take all steps reasonable and necessary to effectuate or evidence the resignation(s) set forth in this Section. Effective as of the Transition Date, Employee shall not be an "executive officer" of the Company for the purposes of the rules and regulations of the U.S. Securities and Exchange Commission or an "officer" of the Company for purposes of Section 16 of the Securities Exchange Act of 1934, as amended.

(c) From August 21, 2026 through the Separation Date, Employee will continue to receive Employee's current annual base salary, paid in accordance with the Company's normal payroll practices and applicable withholdings. Employee will continue to receive benefits, as elected by Employee, from the Company. As of the Separation Date, Employee shall not be eligible to participate in, or be covered by, any employee benefit plan or program offered by or through the Company, and Employee shall not receive any benefits or payments from the Company, except as otherwise provided in this Agreement, under the terms of applicable benefits plans, or by law. The Company may, in its sole discretion, accelerate the timing of the

Separation Date, in which case the Company will pay in lieu of notice the amount of base salary that Employee would have received had he remained employed though the Separation Date.

(d) The Parties are signatories to a January 23, 2023 Indemnity Agreement ("Indemnity Agreement"). As provided for in Section 14 of the Indemnity Agreement, the Indemnity Agreement remains in effect following Employee's Separation Date. Employee is a named defendant in Yung v. Eos Energy, Case No. 26-CV-02372 (D. N.J.) and In re Eos Energy Enterprises, Inc. Stockholder Derivative Litigation, Master File No 2:26-CV-02587 (D. N.J.) and the Company previously agreed to indemnity Employee in both cases as provided for in the Indemnity Agreement.

2. **Final Pay, Equity; Cooperation with Company**:

(a) Final Pay: Employee's final pay for wages earned through the Separation Date will occur in accordance with Company's regular payroll schedule (or, if applicable state law requires an earlier payment, in accordance with state law). If Employee has any accrued, unused PTO, it will be included in Employee's final pay (less applicable deductions and withholdings) regardless of whether Employee signs this Agreement.

(b) Notice Period. Pursuant to Section 7(e) of the Employment Agreement, Employee is entitled to at least sixty (60) days' notice prior to a termination of employment. Employee acknowledges and agrees that the period between August 21, 2026 and the Separation Date satisfies such notice period, as a result, Employee is not entitled to any payment in lieu of notice under Section 7 (e) of the Employment Agreement.

(c) Cooperation with Company: In addition to such other duties as may be reasonably directed by the Chief Executive Officer from time to time, between the Transition Date and the Separation Date, Employee agrees to be reasonably available during regular business hours to respond to any inquiries from the Company related to their operations during Employee's employment. Additionally and following the Separation Date, Employee agrees to reasonably cooperate in defense of any actual or potential obligation, claim, demand, deficiency, levy, fine, penalty, interest, assessment, execution, judgment, recovery, dispute, lawsuit, subpoena or grievance (collectively "Disputes") initiated or currently in progress against Company and related in any way to their operations during Employee's employment, even if Employee is not named as a party. Such cooperation shall include, without limitation, being available, upon reasonable notice, to counsel for Company to provide information relating to such Disputes and appearing for depositions, trial, settlement negotiations, or other activities in defense of the Disputes as requested by Company and/or its counsel. If Employee's cooperation includes more than a de minimus amount of time such as a brief telephone call, Company shall compensate Employee for his time at a rate of $250 per hour and reimburse Employee for expenses reasonably incurred and approved in advance by Company which are directly related to fulfilling Employee's duties under this Section 2(c), except as prohibited by law. Employee's obligations under this Section 2(c) are subject to Employee's Protected Rights (as defined below).

3. **Consideration**: In exchange for the representations and promises set forth in this Agreement, and provided that Employee signs and returns this Agreement (including the Bring-Down Release) and does not revoke it, the Company shall provide Employee with the following payments and consideration (the "Separation Consideration") as set forth in more detail below. Any gross payments set forth below will be subject to all withholdings and deductions as may be required by law.

(a) ***Salary Continuation***. Employee will receive twelve months of base salary, $470,000, paid in periodic installments on the Company's regular payroll dates ("Salary Continuation"). Salary Continuation will begin no later than the next payroll date immediately following the 60th day after the Bring-Down Release Effective Date.

(b) ***Pro-Rata Bonus***. A cash payment equal to Employee's annual bonus for 2026 under the Company's Short-Term Incentive Plan, subject to actual achievement of the applicable performance conditions, pro-rated with respect to Employee's service during 2026 prior to the Separation Date. The Company will pay this amount at such time 2026 bonuses are paid to the Company's executive officers, and in no event later than March 15, 2027.

(c) ***Treatment of Equity Awards***. As of the Transition Date, Employee holds certain awards of restricted stock units ("RSUs") and performance stock units ("PSUs") granted pursuant to Eos Energy Enterprises, Inc. Amended and Restated 2020 Incentive Plan (the "Plan"). From now until the Separation Date, Employee's RSUs and PSUs will remain subject to the vesting and forfeiture rights and obligations in the Plan and any equity award agreement(s) Employee may have signed. Effective as of the Bring-Down Release Effective Date, each of Employee's unvested RSUs shall vest and be settled as soon as practicable and no later than sixty (60) days of the Bring-down Release Effective Date (and in no event later than March 15th of the calendar year following the Separation Date). In addition, Employee's PSUs shall remain outstanding following the Separation Date and shall remain eligible to vest pro-rata based on the number of full calendar months elapsed from the applicable grant date through the Separation Date (as compared to the total number of months from the applicable grant date through the end of the applicable performance period), subject to the Company's actual level of achievement of the applicable performance conditions set forth in the applicable PSU award agreements, which shall be settled at the same time and in the same manner as if Employee had remained employed through the applicable performance period, as certified by the Compensation Committee using the same methodology applied to other participants in the applicable award. Except as otherwise notes in this subparagraph, all other equity awards granted to Employee shall be forfeited on the Separation Date for no consideration.

(d) All payments and other compensation described in this Agreement are subject to withholding for taxes and other applicable deductions in the amounts and at the times that the Company determines are required or authorized by law. Employee shall be responsible for any additional personal income taxes imposed on Employee as a result of Employee's individual tax treatment of payments made pursuant to this Agreement. Employee acknowledges that this Separation Consideration is an amount to which Employee is not otherwise entitled. Employee further acknowledges and agrees that, if Employee materially violates any of Employee's post-employment obligations under any agreement with Company or engages in any of the activities precluded by an applicable restrictive covenant, Employee shall forfeit the right to receive any unpaid portion of the Separation Consideration.

4. **General Waiver and Release of All Claims**:

(a) Based on the Separation Consideration, which Employee agrees is sufficient consideration to which Employee is not otherwise entitled, Employee, on behalf of himself and his family, agents, representatives, heirs, executors, trustees, administrators, attorneys, successors and assigns (the "Releasors"), hereby irrevocably and unconditionally release, settle, cancel, acquit, discharge and acknowledge to be fully satisfied, and covenant not to sue the Company and each of its respective past and/or present parents, subsidiaries, affiliates, successors and assigns, and each of their respective predecessors, and past and/or present directors, managers, officers, employees, agents or other representatives, and employee benefit plans of the Company or its affiliates, including, but not limited to, trustees and administrators of these plans, in each case, in their individual and/or representative capacities (collectively, the "Releasees") from any and all claims, contractual or otherwise, demands, costs, rights, causes of action, charges, debts, liens, promises, obligations, complaints, losses, damages and all liability of whatever kind and nature, whether known or unknown, and hereby waive any and all rights that he, she or it may have, from the beginning of time up to and including the time of signing this Agreement, or that otherwise may exist or may arise in respect of Employee's employment or separation from employment with the Company, or is in any way connected with or related to any applicable compensatory or benefit plan, program, policy or arrangement, including, but not limited to, any claims arising under any United States federal, state or local laws or any applicable laws of any other country, including, but not limited to, any and all claims under Title

VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Older Workers Benefit Protection Act of 1990, the Equal Pay Act, the Americans with Disabilities Act of 1990, as amended, the Family and Medical Leave Act of 1993, the Employee Retirement Income Security Act of 1974, as amended, and any and all other United States federal, state or local regulations, ordinances or public policies, any common law or equity claims and any applicable laws of any other country, or claims under any policy, agreement, understanding or promise, written or oral, formal or informal, between the Company and any of its affiliates and Employee, now or hereafter recognized, including claims for wrongful discharge, slander and defamation, as well as all claims for counsel fees and costs: *provided*, that such released claims shall not (i) include any claims to enforce Employee's rights under, or with respect to, this Agreement (including with respect to the Separation Consideration), (ii) include any claims that may arise after Bring-Down Release Effective Date, (iii) include any claim that cannot be waived as a matter of law, (iv) include any claims for vested employee benefits, (v) include any right to exercise options or other equity awarded under the Plan, as amended from time to time, or (vi) be considered a waiver of or otherwise limit your rights in Employee's capacity as an officer of the Company to indemnification, exculpation, or liability or advancement of expenses under the Company's governing documents or benefits under any directors or officers insurance policy maintained by the Company (the foregoing sub-clauses (i) through (iv) shall collectively be referred to as the "Retained Claims").

(b) Subject to Employee's Protected Rights, the Releasors agree not to bring any action, suit or proceeding whatsoever (including the initiation of governmental proceedings or investigations of any type) against any of the Releasees hereto for any matter or circumstance concerning which the Releasors have released the Releasees under this Release Agreement. Further, subject to Employee's Protected Rights, the Releasors agree not to encourage any other person or suggest to any other person that he, she or it institute any legal action against the Releasees. Notwithstanding the foregoing or any other provision of this Agreement, nothing in this Agreement shall be construed to prohibit Employee from (i) complying with a subpoena with regard to an investigation conducted by the appropriate local, state, or federal agency; (ii) filing or disclosing any facts necessary to receive unemployment insurance, Medicaid, or other public benefits to which Employee is entitled; (iii) asserting claims for wages, bonuses, vacation and sick pay that become due after the date of this Agreement; or (iv) asserting claims for breach of this Agreement.

5. **No Right to Rehire**: Employee recognizes and agrees that Employee has no right of rehire pursuant to this Agreement, or otherwise.

6. **Agreement as Complete Defense**: The Parties understand that this Agreement, and the releases it contains, is a complete defense to any claim or entitlement which Employee may at any time assert against Company in any suit or claim for or on account of any matter or thing whatsoever occurring up to and including the date the Agreement is signed by both Parties.

7. **Restrictive Covenants and Confidentiality**: As set forth in the Employment Agreement in Paragraph 8, Employee acknowledges that the Restrictive Covenants detailed therein continue during the Transition Period as well as following Employee's Separation Date.

(a) Subject to the other terms and conditions of this Agreement, including Employee's Protected Rights, Employee agrees to keep the following matters strictly confidential:

(i) the existence and terms of this Agreement (unless this Agreement is publicly filed at the time); and

(ii) the claims which were or could have been asserted, either expressly or by implication, by Employee in any action against Company.

(b) These matters are to be held in strict confidence by Employee. Subject to Employee's Protected Rights: (A) Employee agrees that all the above-described matters shall be kept confidential and shall

not be discussed, disclosed or otherwise revealed to any person or entity, in either general or specific terms except: (i) to a member of Employee's immediate family, attorney or tax advisor; (ii) with the prior written consent of Company; (ii) pursuant to an order of a court or an order or request by a governmental body or agency having jurisdiction to issue such order or request, in which event Employee shall make every reasonable effort to notify Company prior to any such disclosure; (B) To the extent that Employee provides details to anyone as permitted in paragraph (b)(i), Employee will advise any person of the obligation to keep the terms of this Agreement strictly confidential.

(c) On or within seven (7) days of Employee's Separation Date, Employee will provide the Company with a completed Certification in the form as provided in Exhibit B.

8. **Affirmations**: To the extent Employee may be classified as nonexempt, is later deemed nonexempt, or later claims Employee should have been classified as nonexempt, Employee affirms that Employee has reported all hours worked as of the date of this Agreement and has been paid and/or has received all leave (paid or unpaid), compensation, regular wages, bonuses, commissions, vacation pay, shares, stock options and/or benefits to which Employee may be entitled and that no other leave (paid or unpaid), compensation, wages, bonuses, commissions and/or benefits are due to Employee. Employee furthermore affirms that Employee has no known workplace injuries or occupational diseases and has been provided and/or has not been denied any leave requested, allowed, or provided for under the Family and Medical Leave Act, and/or any other federal, state or local leave law. Subject to Employee's Protected Rights, Employee further affirms Employee has not complained of and is not aware of any fraudulent activity or any act(s) which would form the basis of a claim of fraudulent or illegal activity of Company.

9. **No Admission of Liability**: This Agreement shall not in any way be construed as an admission by Company that it has acted wrongfully with respect to Employee or any other person or employee, or that Employee has any rights whatsoever against Company. Company specifically disclaims any liability to, or wrongful acts against, Employee. It is fully understood and agreed that each Party shall pay that Party's own attorney's fees and costs pertaining to the resolution of this matter.

10. **Protected Rights**: No provision in this Agreement or otherwise prohibits or restricts Employee (or Employee's attorney) from engaging in legally protected activity (such as for example engaging in concerted or protected activity pertaining to the terms and conditions of employment) or initiating communications directly with, or responding to any inquiry from, or providing testimony before, any self-regulatory organization or state or federal regulatory authority (a "Government Agency") regarding this Agreement, the underlying facts or circumstances or any matters related to Employee's employment with Company. This Agreement does not require Employee to contact the Company regarding the subject matter of any such communications before engaging in such communications or obtain prior authorization of the Company to make any such reports or disclosures. The Company may not retaliate against Employee for any of these activities, and nothing in this Agreement or otherwise requires Employee to waive any monetary award or other payment Employee might become entitled to from the Government Agencies (subject to the following sentence). Further, nothing in this Agreement or otherwise shall interfere with Employee's right to file a charge of discrimination or unfair labor practice with or cooperating or participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission or like charge or complaint with a state or local fair employment or labor regulator; however, the consideration provided by this Agreement shall be the sole relief provided to Employee and Employee agrees to waive any monetary benefits or recovery against the Company in connection with any such charge, claim or proceeding without regard to who has brought such charge, claim or proceeding. Further, Employee may also make disclosures of information made confidential by this Agreement for accounting purposes, tax purposes, securing government benefits, or to Employee's lawyer or accountant, and nothing herein prohibits Employee from disclosing any information or from making any statements as permitted or required by applicable law, including information with respect to a sexual assault dispute or sexual harassment dispute, or regarding sexual misconduct. No provision in this Agreement has the purpose or shall have the effect of concealing details relating to any claim of discrimination, retaliation, or harassment. The terms and conditions of this Section 10 shall be referred to herein as Employee's "Protected

Rights".

11. **Return of Company Property**: Except as noted in this Agreement, by the Separation Date or upon earlier request by Company, Employee agrees to return to Company prior to the payment of any consideration under this Agreement, all documents, tangible things and/or all other items Employee has received or obtained from Company and/or property of Company including computer, mobile phone, keys, security cards, equipment, documents, supplies, customer lists, customer information, confidential documents and other materials, computer-recorded information, tangible property, correspondence and any other related information or materials or any kind which contain or embody any proprietary or confidential material of the Company (and all reproductions of such materials), regardless of the manner in which such information is stored. Employee further covenants and agrees that Employee shall not directly or indirectly access, interfere with, tamper with, alter, damage or destroy Company's property, including electronic files, or any part thereof. The obligations under this Section are subject to Employee's Protected Rights. If Employee fails to return any Company property, Company may in its sole discretion make written demand for its return and/or may take legal action to require return/payment. As allowed by applicable law, in the event Employee fails to return all Company property upon two written demands, Employee will be deemed to have agreed that Company property belongs to Company and that Employee is refusing to return Company property. Accordingly, Employee expressly agrees that a presumption shall be created that (1) Employee is required to return Company property; and (2) the applicable sums are due and owing. The demands shall be deemed received if sent to Employee's last known address in Company's payroll system, otherwise delivered to Employee's actual address and/or actually received by Employee. Employee understands that the Company has relied upon Employee's representation and that the return of Company property is an express condition of this Agreement. Employee further acknowledges and agrees that the Company shall have no obligation to make the payment(s) and provide the Separation Consideration unless and until Employee has satisfied all obligations pursuant to this Section and, in the event Employee has retained any Company property in violation of this Section, Employee shall be required to repay any Separation Consideration (on a gross-basis).

12. **Knowing and Voluntary Release**:

(a) Employee further states that Employee has carefully read this Agreement and knows and understands its contents and that Employee executes it as Employee's own free act and deed and enters into the Agreement knowingly and voluntarily.

(b) Employee acknowledges and agrees that Employee has been given adequate time to consider this Agreement (at least for a period of twenty-one (21) days), has been advised to review this Agreement with Employee's counsel, and has seven (7) days after signing this Agreement to revoke. Such revocation must be made in writing and sent to the Company's Senior Vice President, Human Resources, Amber Thompson(athompson@eose.com) (the "Notice Person") or her successor. If Employee signs this Agreement prior to the end of any consideration period described herein, Employee specifically acknowledges that Employee does so knowingly and voluntarily. By signing this Agreement and the Bring-Down Release (as defined below), Employee represents and warrants that Employee has carefully read and fully understands all the provisions of this Agreement, had knowingly and voluntarily entered into this Agreement, without duress or coercion, and has not heretofore assigned or transferred or purported to assign or transfer to any person or entity as of the claims described in Section 4 or any portion thereof or any interest therein. Employee understands that if Employee requests additional time to review the terms of this Agreement, a reasonable extension will be granted.

(c) Employee hereby agrees to re-execute this Agreement and confirm all terms and conditions thereof on the Separation Date by signing the second signature line hereto and providing such executed Agreement to the Notice Person (the "Bring-Down Release"). Employee may revoke the Bring-Down Release after signing it by delivering a written notice of Employee's decision to revoke within seven (7) days after the Separation Date (the "Bring-Down Revocation Period"). Employee understands that such written revocation must be sent to the Notice Person and, upon such revocation, Employee's right to receive the

Separation Consideration and other benefits outlined in this Agreement conditioned thereon shall be forfeited. Employee acknowledges and agrees that this Agreement shall not become effective until the first day after the seven (7) day Bring-Down Revocation Period (the "Bring-Down Release Effective Date").

(d) The consideration that Employee is eligible to receive under this Agreement will not be paid until the Bring-Down Release Effective Date. All applicable revocation and/or rescission periods set forth herein will run concurrently, subject to applicable law.

13. **Disparaging Statements**: Subject to Employee's Protected Rights, Employee expressly agrees to refrain from making, or inducing others to make, any disparaging remarks concerning the Company, or making, or inducing others to make, any other statement, oral or written, which portrays the Company in an unfavorable light or subjects he, she or it or its products or services to scorn, obloquy or ridicule. The Company agrees that it will instruct its executive officers and directors to refrain from making any statements that are critical, disparaging, or derogatory about, or which injure the reputation of Employee.

14. **Non-Waiver**: No failure or delay by any Party in exercising any right, power or privilege under this Agreement shall constitute a waiver of such right, power or privilege, nor shall any single or partial exercise of such right, power or privilege preclude any other or further exercise of such right, power or privilege or the exercise of any right, power or privilege hereunder.

15. **Notices:** All notices, requests, demands, claims, and other communications made under this Agreement shall be in writing and be deemed duly given (a) when delivered personally to the recipient, (b) one (1) business day after being sent to the recipient by reputable overnight courier service to the address first listed above, or (c) immediately after being sent to the recipient by electronic mail. Either Party may change its address shown above by providing written notice to the other Party of such change.

16. **Definitions and Headings**: Unless otherwise expressly noted, all references to: (a) "Section" shall mean, with respect to such reference, each such section or subsection of this Agreement, and (b) "Exhibit" shall mean, with respect to any such reference, each such schedule or exhibit attached to this Agreement. The headings of any section or paragraph of this Agreement are for convenience of reference only and shall not be used to interpret any provision of this Agreement.

17. **Severability**: The provisions of this Agreement, including those in Exhibit A, are deemed severable, and the invalidity, illegality or unenforceability of one or more of such provisions shall not affect the validity, legality or enforceability of the remaining provisions. If the scope of any restriction or covenant contained herein should be or become too broad or extensive to permit enforcement thereof to its full extent, then the Court or Arbitrator (as applicable, per the dispute resolution agreement set forth above and Exhibit A) is specifically authorized by the Parties to enforce any such restriction or covenant to the maximum extent permitted by law, and Employee hereby consents and agrees that the scope of any such restriction or covenant may be modified accordingly in any proceeding brought to enforce such restriction or covenant.

18. **Governing Law**: This Agreement shall be governed, interpreted, and enforced by, under and in accordance with, the laws of the Commonwealth of Pennsylvania without regard to its otherwise applicable conflicts of laws rules.

19. **Dispute Resolution**: Employee agrees that, except as otherwise provided therein (including as provided under Section 10 with respect to Employee's Protected Rights), any and all disputes that arise relating to Employee's employment with Company, this Agreement and/or Employee's separation from Company shall be resolved and/or determined through the dispute resolution procedures set forth in Exhibit A hereto. This Agreement does not prohibit Employee from filing claims under workers' compensation and unemployment insurance statutes. Moreover, civil complaints and/or appeals arising from such charge, claim, investigation, or proceeding are still subject to this dispute resolution agreement and must be mediated and/or

arbitrated in accordance with the terms of this Agreement and Exhibit A. If Employee would otherwise be legally required to exhaust administrative remedies and/or any other prerequisites before bringing suit on any claim in court, Employee must exhaust his/her administrative remedies and/or satisfy any other legally required prerequisites before making a demand for mediation and/or binding arbitration of any such claims. This dispute resolution agreement applies to claims by Company and claims by Employee.

20. **Clawback**: Employee acknowledges and agrees that, to the extent permitted by governing law, Company's Clawback Policy applies to any Incentive Compensation (as that term is defined in the Clawback Policy) paid by Company to Employee, whether under this Agreement or otherwise.

21. **Compromises and Offers**: This Agreement shall be deemed to fall within the protection afforded to compromises and offers to compromise by Federal Rule of Evidence 408 and/or its corresponding state counterpart until executed by all Parties and all contingencies satisfied.

22. **Section 409A**: The intent of the Parties is that the payments provided hereunder comply with Section 409A of the Internal Revenue Code of 1986, as amended (together with any rules or regulations promulgated thereunder, "Section 409A"), to the extent subject thereto. Company makes no representation that any or all of the payments described in this Agreement will be exempt from or comply with Section 409A and makes no undertaking to preclude Section 409A from applying to any such payment. If any provision of this Agreement contravenes Section 409A, the Company may reform this Agreement or any provision hereof to maintain to the maximum extent practicable the original intent of the provision without violating the provisions of Section 409A. For purposes of Section 409A, each payment made under this Agreement will be designated as a "separate payment" within the meaning of Section 409A. In no event shall the Company or its affiliates be liable for any additional tax, interest or penalty that may be imposed on Employee by Section 409A. With respect to the timing of payments of any deferred compensation payable upon a termination of employment hereunder, references in this Agreement to "termination of employment" (and substantially similar phrases) mean "separation from service" within the meaning of Section 409A. For the avoidance of doubt, it is intended that any expense reimbursement made to Employee hereunder is exempt from Section 409A; however, if any expense reimbursement hereunder is determined to be deferred compensation within the meaning of Section 409A, then (i) the amount of the expense reimbursement during one taxable year will not affect the amount of the expense reimbursement during any other taxable year, (ii) the expense reimbursement will be made on or before the last day of the year following the year in which the expense was incurred, and (iii) the right to expense reimbursement hereunder will not be subject to liquidation or exchange for another benefit. To the extent that Employee is a "specified employee" within the meaning of Section 409A as of the date of Employee's separation from service (as determined by the Company), no amounts payable under this Agreement that constitute "deferred compensation" within the meaning of Section 409A that are payable on account of Employee's separation from service shall be paid to Employee until the expiration of the six (6)-month period measured from the date of such separation from service (or, if earlier, the date of Employee's death following such separation from service). Upon the first business day following the expiration of such delay period, all such amounts deferred pursuant to the preceding sentence will be paid to Employee (without interest).

23. **Entire Agreement**: This Agreement constitutes the entire agreement of the Parties, and fully supersedes any prior or contemporaneous written or oral agreements between the Parties, regarding the subject matter contained in this Agreement (including the Employment Agreement, with the exception of any confidentiality or non-disclosure, assignment of proprietary rights, or non-solicitation agreement(s) signed by Employee in connection with Employee's employment with Company (including under Section 8 of the Employment Agreement) (the "Prior Agreements"), for which obligations remain in full force and effect and are in addition to the obligations set forth herein, and Employee expressly acknowledges Employee's intent to adhere to the promises contained in those Prior Agreements. Employee also acknowledges that Employee has not relied on any representation, promises, or agreements of any kind made in connection with the decision to sign this Agreement, except for those set forth in this Agreement. No modification of this Agreement shall be binding or enforceable unless expressly agreed to by the Parties in writing.

24. **Assignment and Beneficiaries**: Any assignment of this Agreement by any Party without the other Party's prior written consent, not to be unreasonably withheld, shall not be permitted except for assignments to such Party's affiliates. The terms, conditions and covenants of this Agreement shall be binding upon each Party, and each of its respective successors, and is for the benefit of each such Party and its successors and assigns.

25. **Execution by Counterparts**: This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signatures of any Party delivered by an electronic signature program (such as DocuSign), an email transmission in portable document format (also known as a "pdf." file), or facsimile shall be deemed delivery of an original executed counterpart for all purposes and shall be binding on all Parties.

26. **Joint Participation in Preparation of Agreement**: The Parties participated jointly in the negotiation and preparation of this Agreement, and each party has had the opportunity to obtain the advice of legal counsel and to review, comment upon, and redraft it. Accordingly, it is agreed that no rule of construction shall apply against any party in favor of any party. This Agreement shall be construed as if the parties jointly prepared it, and any uncertainty or ambiguity shall not be interpreted against any one party and in favor of the other.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each Party, intending to be legally bound, hereby executes this Agreement as of the date set forth below.

Company:

Eos Energy Storage, LLC

By: /s/ Marie Martin

Date: **9/10/2026**

Employee:

/s/ Nathan Kroeker
Nathan Kroeker
Date: **9/10/2026**

BRING-DOWN RELEASE

The Agreement and the terms and conditions thereof are ratified and confirmed as of the Separation Date.

Accepted and Agreed by:

/s/ Nathan Kroeker
Nathan Kroeker

Date: **10/21/2026**

Exhibit A
Dispute Resolution Procedures

1. **Mediation**:

(a) If a dispute arises within the scope of this Agreement that was not resolved through consultation with Company's Human Resources, the Parties shall first submit the dispute or controversy to non-binding mediation in accordance with the following procedure: Either Employee or Company can initiate the dispute resolution process by submitting a written request to mediate to the other Party. Requests to Company should be addressed to the attention of Company's Legal Department. The mediation shall be held before a qualified neutral mediator and the mediation shall take place in the metropolitan area of the division or office to which the Employee was assigned at the time of the dispute. The Parties shall jointly designate a mediator. Within fifteen (15) business days of receipt of the initiating Party's written request for mediation, the Parties shall exchange a written list of each Party's proposed mediators and shall make a good faith effort to agree on a mutually acceptable mediator. If the Parties cannot agree on a mediator within thirty (30) business days of the date of the written request for mediation, the mediation will be administered by the American Arbitration Association ("AAA"), and AAA will designate a qualified mediator. The Employment Arbitration Rules and Mediation Procedures can be found at www.adr.org.

(b) To initiate mediation proceedings with the AAA in circumstances where the Parties cannot agree on a mediator, the Party initiating the mediation request shall first notify the other Party in writing that no agreement can be reached on mediator selection, and then both Parties shall submit a "Request for Mediation Form" to the AAA. (Online forms are available at www.adr.org). The designated mediator shall have experience and expertise in the subject matter of the dispute. Company and the Employee are obligated to make a good faith effort to resolve the issue through mediation, and to participate in the mediation session to its conclusion. The Parties are entitled to a full day mediation session under this Agreement; however, the Parties may jointly agree to a half-day mediation session. Mediation sessions are to be conducted with as little formality and technicality as possible. The Parties shall equally share the costs of mediation, unless the Parties agree otherwise, and each Party shall bear its/his/her own attorneys' fees and costs in connection with the mediation of any disputes under this Agreement. To ensure that mediation is held in a non-prejudicial manner and to encourage candid discourse among the Parties, all information disclosed in the course of mediation is to remain confidential.

2. **Binding Arbitration**:

(a) If the dispute is not resolved through mediation, Employee and Company agree to resolve the dispute exclusively by binding arbitration under the Federal Arbitration Act ("FAA") and this Agreement. Preliminary injunctive relief and other provisional remedies in aid of arbitration may be sought by either the Employee or Company in a court of competent jurisdiction under applicable law, but the arbitrator alone may award permanent injunctive relief. All proceedings shall be confidential as allowed by law.

(b) Employee acknowledges and agrees that proceeding under this Agreement is the exclusive remedy for all disputes arising from or related to his/her employment with or separation from Company, as well as any disputes related to this Agreement. In addition, both Employee and Company agree to waive all rights to a civil court action regarding any disputes within the scope of this Agreement. This means that only the arbitrator, and not a judge or jury, will decide the dispute.

(c) Arbitrations under this Agreement will be governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq., and resolved by a neutral arbitrator in a binding arbitration administered by the AAA under the arbitration-related portion of the AAA's Employment Arbitration Rules and Mediation Procedures (the "Arbitration Rules"), in effect on November 1, 2009, including indigency determination procedures. The Arbitration Rules are available at http://www.adr.org. In the case of a conflict between the AAA Rules and this Agreement, this Agreement shall control.

(d) The interpretation and enforcement of this dispute resolution agreement shall be governed exclusively by the Federal Arbitration Act. Employee understands and agrees that this Agreement applies to all claims arising from or related to his/her employment, except claims filed under workers' compensation and unemployment insurance statutes and administrative charges filed under the National Labor Relations Act, Title VII, or other governmental agency charges, although civil complaints arising from such charges are still subject to this Agreement and must be submitted to confidential binding arbitration in accordance with the terms of this Agreement. As noted above, if Employee would otherwise be legally required to exhaust administrative remedies and/or any other prerequisites before bringing suit on any claim in court, Employee must exhaust his/her administrative remedies and/or satisfy any other legally required prerequisites before making a demand for arbitration of any such claims. All statutes of limitation that would be applied if the applicable dispute was filed in court of competent jurisdiction shall apply to disputes under this Procedure. In the event a court orders the Parties to arbitration and/or any other form of ADR under this Procedure in a case where the suit was initially filed within the applicable statute of limitations and within other applicable jurisdictional deadlines, the Party seeking affirmative relief in the case must make the required filings with AAA within 45 days of the date of the court order, or the case shall be dismissed with prejudice. Any case not submitted to Arbitration or filed in court within the applicable statute of limitations or other applicable jurisdictional deadline shall be subject to dismissal in accordance with applicable law. This provision is not intended to constitute a waiver of the obligations of the Parties to submit disputes in accordance with this policy, but as a time limit for cases not otherwise time-barred to be submitted to arbitration.

(e) Unless otherwise agreed by the Parties, arbitration shall take place in the city in which the Division office of the division or corporate office or equivalent to which the Employee was assigned is located. Employee will pay AAA's filing fee for disputes arising under "employer-promulgated plans" under the Arbitration Rules and bear his/her own attorney's fees and costs of preparing the case, unless the arbitrator awards such fees and costs. The arbitrator is empowered to award attorneys' fees and costs to either Party based on applicable law. Company will pay the remaining part of the filing fee, AAA's administrative fees for such disputes, and the fees and expenses of the arbitrator and it will provide or pay for the hearing facilities. Employee acknowledges that Company's payment of such fees shall in no way affect the neutrality of the arbitrator and will stipulate to same prior to the commencement of the arbitration.

(f) In rendering an award, the arbitrator shall determine the rights and obligations of the Parties according to applicable law and the arbitrator's decision shall also be governed by applicable law, as though the matter were before a court of law.

(g) Employee understands that, notwithstanding anything to the contrary in the AAA Arbitration Rules, and in consideration for the relaxed standards of evidence and speed of arbitration proceedings, Employee and Company agree to arbitrate any claims individually and further agree there shall be no class actions, collective actions, multi-plaintiff arbitrations, or class arbitrations of any claims within the scope of this Agreement. The arbitrator shall not have power to treat any claim as a class, collective, multi-plaintiff, or consolidated claim. This means that arbitration may only proceed on an individual basis.

(h) Employee further understands that, notwithstanding anything to the contrary in the AAA Arbitration Rules, Employee and Company agree that formal discovery in any arbitration proceeding shall be limited to four (4) depositions per side; fifteen (15) interrogatories per side; and requests for production of documents/things shall be limited to thirty (30) document categories per side. Provided, however, that the arbitrator shall have the power to increase the number of depositions, document requests and interrogatories upon a showing of good cause and substantial need and that the requested discovery is not duplicative or cumulative and cannot be obtained by less-intrusive, less-burdensome, and less-expensive means. Documents and information that are equally available to each Party, such as information available in the public domain, may not be requested through discovery.

(i) Employee and Company further agree that a Party may serve on the opposing Party an offer to settle, compromise and/or allow judgment on specified terms, in accordance with the requirements of any state or local law or rule providing for offers of settlement, compromise and/or judgment that exist in the geographic location of the arbitration proceeding. And any such offers shall be governed by applicable state or local law. If there is no applicable state or local law in effect concerning offers of settlement, compromise and/or judgment in the geographic location of the arbitration proceedings, the Parties are entitled to make an offer of judgment in accordance with the requirements of Rule 68 of the Federal Rules of Civil Procedure. If the opposing Party serves timely written notice accepting the offer, either Party may then file the offer and notice of acceptance, plus proof of service, with the arbitrator. The arbitrator must then enter a written arbitration award confirming judgment in accordance with the terms specified in the accepted offer. An unaccepted offer is considered withdrawn, but it does not preclude a later offer. The impact of an unsuccessful offer will be determined by the Arbitrator in accordance with applicable law.

(j) Either Party may file dispositive motions of the kind allowed by the Federal Rules of Civil Procedure, and the arbitrator shall timely rule on such motions in accordance with applicable law.

(k) Any arbitration award shall be accompanied by a written statement containing a summary of the issues in controversy, a description of the award, and an explanation of the essential findings and conclusions. Such decision shall be final, conclusive and binding on the Parties to the arbitration. The decision of the arbitrator shall be made within thirty (30) days following the close of the hearing. Employee and Company agree the award shall be enforceable by any state or federal court of competent jurisdiction within the state in which the Employee works or worked for Company at the time the dispute arose.

(l) If any part of this arbitration procedure is in conflict with any applicable law, the law shall govern, and that part of this arbitration procedure shall be reformed and construed to the maximum extent possible in conformance with the applicable law. The arbitration procedure shall remain otherwise unaffected and enforceable. This Agreement is not intended to interfere with or restrict protected concerted activities pursuant to the National Labor Relations Act.

Exhibit B

CERTIFICATION

This Certification is provided by **Nathan Kroeker** ("Employee") following his **October 21, 2026** date of separation ("Separation Date") from Eos Energy Storage LLC (the "Company"). The Parties' relationship is set forth in a January 20, 2023 Employment Agreement ("Employment Agreement"). Employee acknowledges that certain provisions of the Employment Agreement continue to be in effect following Employee's Separation Date.

As defined in the Employment Agreement, Confidential Information includes "any confidential or proprietary trade secrets, customer lists, drawings, designs, marketing plans, management organization information ...operating policies or manuals, business plans, financial records, other financial, commercial, business or technical information." Employee acknowledges that Confidential Information belongs exclusively to the Company and Employee's duty to not disclose any Confidential Information to anyone outside of the Company continues beyond Employee's Date of Separation.

As of the date indicated below, Employee certifies that the following actions have been taken.

- Employee certifies that they have returned all Confidential Information including as well as all Company documents, tangible things and/or all other items Employee has received or obtained from Company and/or property of Company including computer, mobile phone, keys, security cards, equipment, documents, supplies, customer lists, customer information, and confidential documents.
- To the extent that Employee has any paper documents that came from the Company including any and all marketing materials, Employee certifies that they have either returned the paper documents to Company or has destroyed same via confidential mode of disposal such as shredding.
- Employee certifies that they have performed a good faith search of any electronic records for Confidential Information or Company property that may have been stored on any personal electronic device owned by Employee, such as personal computers, and that Employee has made reasonable efforts to permanently delete any and all such data from the hard drives.
- Employee certifies that they have performed a good faith search of any electronic personal emails that may contain Confidential Information or Company records and Employee has made reasonable efforts to permanently delete any and all such emails.
- Employee certifies that they have performed a good faith search of any additional electronically stored messages on his personal cell phone in the form of text message and has made reasonable efforts to permanently delete any text messages containing Confidential Information or Company information.

The above is true and correct to the best of my knowledge, information and belief.

/s/ Nathan Kroeker **Date:** October 21, 2026

Nathan Kroeker

EXHIBIT 31.1

CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Joseph Mastrangelo, certify that:

1. I have reviewed this quarterly report on Form 10-Q (the "Report") of Eos Energy Enterprises, Inc. (the "Registrant");

2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this Report;

4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:

a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;

b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c. Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and

d. Disclosed in this Report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):

a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and

b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: November 5, 2026

By: /s/ Joseph Mastrangelo

Joseph Mastrangelo

Chief Executive Officer

(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Alessandro Lagi, certify that:

1. I have reviewed this quarterly report on Form 10-Q (the "Report") of Eos Energy Enterprises, Inc. (the Registrant");

2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this Report;

4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:

a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;

b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c. Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and

d. Disclosed in this Report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and

5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and

b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: November 5, 2026

By: /s/ Alessandro Lagi

Alessandro Lagi
Chief Financial Officer
(Principal Financial Officer)

EXHIBIT 32

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

In connection with the Quarterly Report on Form 10-Q of Eos Energy Enterprises, Inc. (the "Registrant"), for the quarterly period ended September 30, 2026 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Joseph Mastrangelo, hereby certify, in the capacity and on the date indicated below, pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

Date: November 5, 2026

By: /s/ Joseph Mastrangelo
Joseph Mastrangelo
Chief Executive Officer
(Principal Executive Officer)

In connection with the Quarterly Report on Form 10-Q of Eos Energy Enterprises, Inc. (the "Registrant"), for the quarterly period ended September 30, 2026 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Alessandro Lagi, hereby certify, in the capacity and on the date indicated below, pursuant to 18 U.S.C. §1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

Date: November 5, 2026

By: /s/ Alessandro Lagi
Alessandro Lagi
Chief Financial Officer
(Principal Financial Officer)