

Enphase Energy, Inc.  
Form 424B3  
April 09, 2019  
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Filed Pursuant to Rule 424(b)(3)

Registration No. 333-228774

**PROSPECTUS**

**\$5,000,000**

**4.00% Convertible Senior Notes due 2023**

**and**

**Common Stock Issuable upon Conversion of the Affiliate Notes**

An affiliate of ours who is a director and a stockholder, Thurman John Rodgers, purchased through a trust controlled by him (the Selling Securityholder) \$5.0 million aggregate principal amount of our 4.00% Convertible Senior Notes due 2023 (the Affiliate Notes). The Affiliate Notes were sold in a private placement that was completed in August 2018 currently with the sale and issuance of \$60,000,000 aggregate principal amount of our 4.00% Convertible Senior notes due 2023, which were offered and sold to qualified institutional buyers as defined in Rule 144A under the Securities Act (the Primary Offering). The Affiliate Notes constitute part of the same series as the notes issued and sold in the Primary Offering (the Primary Offering Notes and collectively with the Affiliate Notes, the Notes or the notes).

This prospectus will be used by the Selling Securityholder to resell the Affiliate Notes and any shares of our common stock issuable upon conversion of the Affiliate Notes. We will not receive any of the proceeds from the sale of the Affiliate Notes or such shares of our common stock by the Selling Securityholder.

Holders may convert the Affiliate Notes at their option at any time prior to the close of business on the business day immediately preceding the maturity date of the Affiliate Notes. Upon conversion of an Affiliate Note, we will deliver for each \$1,000 principal amount of converted Affiliate Notes a number of shares of our common stock equal to the conversion rate (along with cash in lieu of any fractional share) as described in this prospectus. The conversion rate will initially be 180.0180 shares of common stock per \$1,000 principal amount of the Affiliate Notes (equivalent to an initial conversion price of approximately \$5.56 per share of common stock). The conversion rate will be subject to adjustment in some events but will not be adjusted for any accrued and unpaid interest.

The Affiliate Notes will bear interest at a rate of 4.00% per year, payable semiannually in arrears on February 1 and August 1 of each year, beginning on February 1, 2019. The Affiliate Notes will mature on August 1, 2023, unless earlier converted or repurchased. We may not redeem the Affiliate Notes prior to their maturity date, and no sinking fund is provided for the Affiliate Notes.

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The Affiliate Notes will be our general unsecured obligations and will: rank senior to any of our indebtedness that is expressly subordinated in right of payment to the Notes; rank equal in right of payment to any of our indebtedness that is not so subordinated; be effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and be structurally junior to all indebtedness and other liabilities (including trade payables) of our subsidiaries.

The Selling Securityholder identified in this prospectus, or its permitted transferees or other successors-in-interest that may be identified in a supplement to this prospectus or, if required, a post-effective amendment to the registration statement of which this prospectus is a part, may offer the Affiliate Notes and, as applicable, shares of our common stock issuable upon conversion of the Affiliate Notes, from time to time through public or private transactions at fixed prices, at prevailing market prices, at varying prices determined at the time of sale, or at privately negotiated prices.

We provide more information about how the Selling Securityholder may sell the Affiliate Notes and shares of common stock issuable upon conversion of the Affiliate Notes in the section entitled *Plan of Distribution* beginning on page 46 of this prospectus.

The Affiliate Notes are not listed on any securities exchange or any automated dealer quotation system. Our common stock is listed on the Nasdaq Global Market under the symbol *ENPH*. On April 8, 2019, the last reported sale price of our common stock on the Nasdaq Global Market was \$10.24.

*Investing in the Affiliate Notes and our common stock involves a high degree of risk. You should review carefully the risks and uncertainties included herein under the heading *Risk Factors* on page 4 of this prospectus.*

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is April 9, 2019.**

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**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement on Form S-3 that we filed with the Securities and Exchange Commission (the SEC) using the shelf registration process. Under this process, the Selling Securityholder may from time to time, in one or more offerings, sell the Affiliate Notes and shares of our common stock issuable upon conversion of the Affiliate Notes, as described in this prospectus.

You should rely only on the information contained in or incorporated by reference into this prospectus (as supplemented and amended). We have not authorized anyone to provide you with different information. This document may only be used where it is legal to sell these securities. The information contained in this prospectus (and in any supplement or amendment to this prospectus) is accurate only as of the date on the front of the document, and any information we have incorporated by reference is accurate only as of the date of the document incorporated by reference, regardless of the time of delivery of this prospectus or any sale of the Affiliate Notes or shares of our common stock issuable upon conversion of the Affiliate Notes. Our business, financial condition, results of operations and prospects may have changed since those dates.

We urge you to read carefully this prospectus (as supplemented and amended), together with the information incorporated herein by reference as described under the heading **Incorporation of Certain Information by Reference** before deciding whether to invest in any of the Affiliate Notes or shares of our common stock issuable upon conversion of the Affiliate Notes.

This prospectus incorporates by reference market data, industry statistics and other data that have been obtained from, or compiled from, information made available by third parties. We have not independently verified their data. This prospectus and the information incorporated herein by reference include trademarks, service marks and trade names owned by us or other companies. All trademarks, service marks and trade names included or incorporated by reference into this prospectus are the property of their respective owners.

As used in this prospectus, references to **Enphase**, **we**, **our** and **us** refer to Enphase Energy, Inc. and its subsidiaries, unless otherwise specified in this prospectus.

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**PROSPECTUS SUMMARY**

*This summary highlights selected information appearing elsewhere or incorporated by reference into this prospectus and may not contain all of the information that is important to you. You should read this prospectus carefully, including the risks and uncertainties included herein under the heading Risk Factors beginning on page 4 in this prospectus and incorporated by reference from our most recent annual report on Form 10-K, as the same may be amended, supplemented or superseded by the risks and uncertainties described under similar headings in other documents that are filed by us after the date hereof and incorporated by reference into this prospectus, before making an investment decision.*

**Company Overview**

We are a global energy technology company, delivering smart, easy-to-use solutions that connect solar generation, storage and communications management on one intelligent platform. We revolutionized solar with our microinverter technology and produce the world's only truly integrated solar-plus-storage solution. We have shipped more than 19 million microinverters, representing over 4 gigawatts of solar photovoltaic ( PV ) generating capacity, and more than 855,000 Enphase residential and commercial systems have been deployed in over 125 countries.

**Corporate Information**

We were incorporated as PVI Solutions, Inc. in March 2006 in the State of Delaware and changed our name to Enphase Energy, Inc. in July 2007. Our principal corporate offices are located at 47281 Bayside Parkway, Fremont, CA, 94538, and our telephone number is (707) 774-7000. Our website is located at [www.enphase.com](http://www.enphase.com). Information found on, or accessible through, our website is not a part of, and is not incorporated into, this prospectus, and you should not consider it part of this prospectus. Our website address is included in this document as an inactive textual reference only.

**Risk Factors**

Investing in the Affiliate Notes and our common stock involves a high degree of risk. See Risk Factors on page 4 below.

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**Summary Description of the Affiliate Notes**

The summary below describes the principal terms of the Affiliate Notes. Certain of the terms and conditions described below are subject to important limitations and exceptions. The Description of Notes section of this prospectus contains a more detailed description of the terms and conditions of the Affiliate Notes. When the Selling Securityholder offers and sells any securities pursuant to a prospectus supplement, we may include additional information relevant to the terms of the offering in the prospectus supplement.

|                           |   |
|---------------------------|---|
| <b>Issuer:</b>            | Enphase Energy, Inc., a Delaware corporation.   |
| <b>Securities:</b>        | \$5,000,000 aggregate principal amount of 4.00% Convertible Senior Notes due 2023 and up to 990,099 shares of our common stock issuable upon conversion of such Affiliate Notes.  |
| <b>Maturity:</b>          | August 1, 2023, unless earlier converted or repurchased.  |
| <b>Interest:</b>          | 4.00% per year. Interest will accrue from August 17, 2018 and will be payable semiannually in arrears on February 1 and August 1 of each year, beginning on February 1, 2019.   |
| <b>Conversion Rights:</b> | Holder may convert all or any portion of the Affiliate Notes, in multiples of \$1,000 principal amount, at their option at any time prior to the close of business on the business day immediately preceding the maturity date. |

The conversion rate for the Affiliate Notes is initially 180.0180 shares of common stock per \$1,000 principal amount of Affiliate Notes (equivalent to an initial conversion price of approximately \$5.56 per share of common stock), subject to adjustment as described in this prospectus.

Upon conversion, we will deliver for each \$1,000 principal amount of Affiliate Notes converted a number of shares of our common stock equal to the conversion rate (together with a cash payment in lieu of delivering any fractional share) on the second business day following the relevant conversion date.

Holder will not receive any additional cash payment or additional shares representing accrued and unpaid interest, if any, upon conversion of any Affiliate Notes, except in limited circumstances. Instead, interest will be deemed to be paid by the delivery of the shares of our common stock, together with a cash payment for any fractional share, upon conversion of any Affiliate Notes.

|                       |   |
|-----------------------|---|
| <b>No Redemption:</b> | We may not redeem the Affiliate Notes prior to the maturity date, and no sinking fund is provided for the Affiliate Notes.  |
| <b>Ranking:</b>       | The Affiliate Notes and the Primary Offering Notes will be our general unsecured obligations and will: rank senior to our indebtedness that is expressly subordinated in right of payment to the Notes; rank equal in right of payment to any of our indebtedness that is not so subordinated; be effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and be structurally junior to all indebtedness and other liabilities (including trade payables) of our subsidiaries. |

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**Nasdaq Global Market  
Symbol for our Common  
Stock:**

Our common stock is listed on The Nasdaq Global Market under the symbol ENPH. The Affiliate Notes are not listed on any securities exchange or any automated quotation system.

**Trustee, Paying Agent and  
Conversion Agent:**

U.S. Bank National Association

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**RISK FACTORS**

An investment in the Affiliate Notes and shares of our common stock issuable upon conversion of the Affiliate Notes involves a high degree of risk. Before deciding whether to invest in the Affiliate Notes or shares of our common stock, you should consider carefully the risk factors and all other information included in, or incorporated by reference into, this prospectus, including those included in our most recent Annual Report on Form 10-K filed with the SEC on March 15, 2019, as the same may be amended, supplemented or superseded by the risks and uncertainties described under similar headings that are filed by us after the date hereof and incorporated by reference into this prospectus. Additional risks not currently known to us or that we currently believe are immaterial may also significantly impair our business operations. Please also read carefully the section below entitled "Special Note Regarding Forward-Looking Statements." When the Selling Securityholder offers and sells any securities pursuant to a prospectus supplement, if applicable, we may include additional risk factors relevant to such securities in the prospectus supplement.

**Risks Related to the Notes**

*The Notes are our unsecured senior obligations and will rank equally with all of our existing and future senior unsecured indebtedness but will be effectively subordinated to our secured debt and structurally subordinated to any debt and other liabilities of our subsidiaries.*

The Notes will be our general unsecured obligations. The Notes will rank senior to our indebtedness that is expressly subordinated in right of payment to the notes, and will rank equal in right of payment to any of our indebtedness that is not so subordinated. The Notes will also be effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness, and will be structurally junior to all indebtedness and other liabilities (including trade payables) of our subsidiaries.

In the event of our bankruptcy, liquidation, reorganization or other winding up, our assets that secure debt effectively ranking senior to the Notes will be available to pay obligations on the Notes only after the secured debt has been repaid in full from these assets. There may not be sufficient assets remaining to pay amounts due on any or all of the Notes then outstanding. The indenture governing the Notes (the "Indenture") does not prohibit us from incurring additional indebtedness, including secured indebtedness, nor does it prohibit any of our subsidiaries from incurring additional liabilities.

*The Notes are our obligations only and our operations are conducted through, and a substantial portion of our consolidated assets are held by, our subsidiaries.*

The Notes are our obligations exclusively and are not guaranteed by any of our operating subsidiaries. A substantial portion of our consolidated assets is held by our subsidiaries. Accordingly, our ability to service our debt, including the Notes, depends on the results of operations of our subsidiaries and upon the ability of such subsidiaries to provide us with cash, whether in the form of dividends, loans or otherwise, to pay amounts due on our obligations, including the Notes. Our subsidiaries are separate and distinct legal entities and have no obligation, contingent or otherwise, to make payments on the Notes or to make any funds available for that purpose. In addition, dividends, loans or other distributions to us from such subsidiaries may be subject to contractual and other restrictions (including under the Loan Agreement) and are subject to other business and tax considerations.



*Servicing our debt requires a significant amount of cash, and we may not have sufficient cash flow from our business to pay our substantial debt.*

Our ability to make scheduled payments of the principal of, to pay interest on or to refinance our indebtedness, including the Notes, depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not continue to generate cash flow from operations in the future sufficient to service our debt and make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations, including our obligations under the Notes.

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***Recent and future regulatory actions and other events may adversely affect the trading price and liquidity of the Notes.***

We expect that many investors in, and potential purchasers of, the Notes will employ, or seek to employ, a convertible arbitrage strategy with respect to the Notes. Investors would typically implement such a strategy by selling short the common stock underlying the Notes and dynamically adjusting their short position while continuing to hold the Notes. Investors may also implement this type of strategy by entering into swaps on our common stock in lieu of or in addition to short selling the common stock.

The SEC and other regulatory and self-regulatory authorities have implemented various rules and taken certain actions, and may in the future adopt additional rules and take other actions, that may impact those engaging in short selling activity involving equity securities (including our common stock). Such rules and actions include Rule 201 of SEC Regulation SHO, the adoption by the Financial Industry Regulatory Authority, Inc. and the national securities exchanges of a Limit Up-Limit Down program, the imposition of market-wide circuit breakers that halt trading of securities for certain periods following specific market declines, and the implementation of certain regulatory reforms required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Any governmental or regulatory action that restricts the ability of investors in, or potential purchasers of, the Notes to effect short sales of our common stock, borrow our common stock or enter into swaps on our common stock could adversely affect the trading price and the liquidity of the Notes.

***We may still incur substantially more debt or take other actions which would intensify the risks discussed above.***

We and our subsidiaries may be able to incur substantial additional debt, subject to our future debt instruments, some of which may also be secured debt. We will not be restricted under the terms of the indenture governing the Notes from incurring additional debt, securing existing or future debt, recapitalizing our debt or taking a number of other actions that are not limited by the terms of the indenture governing the notes that could have the effect of diminishing our ability to make payments on the notes when due.

***We may not have the ability to raise the funds necessary to repurchase the Notes upon a fundamental change, and our future debt may contain limitations on our ability to repurchase the Notes.***

Holder of the Notes will have the right to require us to repurchase all or a portion of their Notes upon the occurrence of a fundamental change at a repurchase price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest, if any, as described under Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes. However, we may not have enough available cash or be able to obtain financing at the time we are required to make repurchases of Notes surrendered therefor.

Our ability to repurchase the Notes may be limited by law, by regulatory authority or by the agreements governing our future indebtedness. Our failure to repurchase tendered Notes at a time when the repurchase is required by the Indenture would constitute a default under the Indenture. A default under the Indenture could lead to a default under agreements governing our future indebtedness. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and repurchase the Notes.

*Sales of a substantial number of shares of our common stock in the public market by our existing stockholders could cause our stock price to fall.*

Sales of a substantial number of shares of our common stock in the public market or the perception that these sales might occur could depress the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities. We are unable to predict the effect that sales may have on the prevailing market price of our common stock. All outstanding shares of our common stock are eligible for sale in the public market, subject in some cases to the volume limitations and manner of sale requirements of Rule 144. Sales of stock by our stockholders could have a material adverse effect on the trading price of our common stock.

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Certain holders of our securities are entitled to rights with respect to the registration of their shares under the Securities Act. Registration of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act. Any sales of securities by these stockholders could have a material adverse effect on the trading price of our common stock.

Substantial sales of our common stock may make it more difficult for us to sell equity or equity-linked securities, such as the Notes, in the future at a time and at a price that we deem appropriate. These sales also could cause our stock price and the trading price of the Notes to fall and make it more difficult for you to sell the Notes or the shares of our common stock you receive upon conversion of your Notes.

The market price of our common stock could also be affected by possible sales of our common stock by investors who view the Notes as a more attractive means of equity participation in us and by hedging or arbitrage trading activity that we expect to develop involving our common stock. This trading activity could, in turn, affect the trading price of the Notes.

***Holders of the Notes will not be entitled to any rights with respect to our common stock, but they will be subject to all changes made with respect to them to the extent our conversion obligation includes shares of our common stock.***

Holders of the Notes will not be entitled to any rights with respect to our common stock (including, without limitation, voting rights and rights to receive any dividends or other distributions on our common stock) prior to the conversion date with respect to any Notes they surrender for conversion, but they will be subject to all changes affecting our common stock. For example, if an amendment is proposed to our certificate of incorporation or bylaws requiring stockholder approval and the record date for determining the stockholders of record entitled to vote on the amendment occurs prior to the conversion date with respect to any Notes surrendered for conversion, then the holder surrendering such Notes will not be entitled to vote on the amendment, although such holder will nevertheless be subject to any changes affecting our common stock.

***The Notes are not protected by restrictive covenants.***

The Indenture governing the Notes does not contain any financial or operating covenants or restrictions on the payments of dividends, the incurrence of indebtedness or the issuance or repurchase of securities by us or any of our subsidiaries. The indenture contains no covenants or other provisions to afford protection to holders of the Notes in the event of a fundamental change or other corporate transaction involving us except to the extent described under Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes, Description of Notes Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change and Description of Notes Consolidation, Merger or Sale of Assets.

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***The increase in the conversion rate for Notes converted in connection with a make-whole fundamental change may not adequately compensate you for any lost value of your notes as a result of such transaction.***

If a make-whole fundamental change occurs prior to the maturity date, under certain circumstances, we will increase the conversion rate by a number of additional shares of our common stock for Notes converted in connection with such make-whole fundamental change. The increase in the conversion rate will be determined based on the date on which the specified corporate transaction becomes effective and the price paid (or deemed to be paid) per share of our common stock in such transaction, as described below under Description of Notes Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change.

The increase in the conversion rate for notes converted in connection with a make-whole fundamental change may not adequately compensate you for any lost value of your Notes as a result of such transaction. In addition, if the price per share of our common stock paid (or deemed paid) in the transaction is greater than \$20.00 per share or less than \$5.05 per share (in each case, subject to adjustment), no additional shares will be added to the conversion rate. Moreover, in no event will the conversion rate per \$1,000 principal amount of notes as a result of this adjustment exceed 198.0198 shares of common stock, subject to adjustment in the same manner as the conversion rate as set forth under Description of Notes Conversion Rights Conversion Rate Adjustments.

Our obligation to increase the conversion rate for Notes converted in connection with a make-whole fundamental change could be considered a penalty, in which case the enforceability thereof would be subject to general principles of reasonableness and equitable remedies.

***The conversion rate of the Notes may not be adjusted for all dilutive events.***

The conversion rate of the Notes is subject to adjustment for certain events, including, but not limited to, the issuance of certain stock dividends on our common stock, the issuance of certain rights or warrants, subdivisions, combinations, distributions of capital stock, indebtedness, or assets, cash dividends and certain issuer tender or exchange offers as described under Description of Notes Conversion Rights Conversion Rate Adjustments. However, the conversion rate will not be adjusted for other events, such as a third-party tender or exchange offer or an issuance of common stock for cash, that may adversely affect the trading price of the Notes or our common stock. An event that adversely affects the value of the Notes may occur, and that event may not result in an adjustment to the conversion rate.

***Some significant restructuring transactions may not constitute a fundamental change, in which case we would not be obligated to offer to repurchase the Notes.***

Upon the occurrence of a fundamental change, you have the right to require us to repurchase your Notes. However, the fundamental change provisions will not afford protection to holders of Notes in the event of other transactions that could adversely affect the Notes. For example, transactions such as leveraged recapitalizations, refinancings, restructurings or acquisitions initiated by us may not constitute a fundamental change requiring us to repurchase the Notes. In the event of any such transaction, the holders would not have the right to require us to repurchase the Notes, even though each of these transactions could increase the amount of our indebtedness, or otherwise adversely affect our capital structure or any credit ratings, thereby adversely affecting the holders of Notes.



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In addition, absent the occurrence of a fundamental change or a make-whole fundamental change as described under Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes or Description of Notes Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change, changes in the composition of our board of directors will not provide holders with the right to require us to repurchase the Notes or to an increase in the conversion rate upon conversion.

*We cannot assure you that an active trading market will develop for the Notes.*

Prior to the offering of the Notes, there has been no trading market for the Notes, and we do not intend to apply to list the Notes on any securities exchange or to arrange for quotation on any automated dealer quotation system. The initial purchasers of the Primary Offering Notes indicated that they intended to make a market in the Primary Offering Notes offered in the Primary Offering. However, the initial purchasers may cease their market-making at any time without notice. In addition, the liquidity of the trading market in the Notes and the market price quoted for the Notes, may be adversely affected by changes in the overall market for this type of security and by changes in our financial performance or prospects or in the prospects for companies in our industry generally. As a result, we cannot assure you that an active trading market will develop for the Notes. If an active trading market does not develop or is not maintained, the market price and liquidity of the Notes may be adversely affected. In that case, you may not be able to sell your Notes at a particular time or you may not be able to sell your notes at a favorable price.

*Any adverse rating of the Notes may cause their trading price to fall.*

We do not intend to seek a rating on the Notes. However, if a rating service were to rate the Notes and if such rating service were to lower its rating on the Notes below the rating initially assigned to the Notes or otherwise announces its intention to put the Notes on credit watch, the trading price of the Notes could decline.

*You may be subject to tax if we make or fail to make certain adjustments to the conversion rate of the Notes even though you do not receive a corresponding cash distribution.*

The conversion rate of the Notes is subject to adjustment in certain circumstances, including the payment of cash dividends. If the conversion rate is adjusted as a result of a distribution that is taxable to our common stockholders, such as a cash dividend, you may be deemed to have received a dividend subject to U.S. federal income tax without the receipt of any cash. In addition, a failure to adjust (or to adjust adequately) the conversion rate after an event that increases your proportionate interest in us could be treated as a deemed taxable dividend to you. If a make-whole fundamental change occurs prior to the maturity date, under some circumstances, we will increase the conversion rate for Notes converted in connection with the make-whole fundamental change. Such increase may also be treated as a distribution subject to U.S. federal income tax as a dividend. If you are a Non-U.S. Holder (as defined under Certain U.S. Federal Income Tax Considerations below), any deemed dividend would generally be subject to U.S. federal withholding tax at a 30% rate, or such lower rate as may be specified by an applicable treaty, which may be set off against subsequent payments on the notes. For more information, see Certain U.S. Federal Income Tax Considerations.

**Risks Related to Our Common Stock**

*The market price of our common stock may be volatile or may decline regardless of our operating performance, which could adversely impact the trading price of the Notes.*

The market price of our common stock has been and could be subject to wide fluctuations in response to, among other things, the risk factors described in, or incorporated by reference into, this prospectus, and other factors beyond our control, such as, quarterly variations in operating results, announcements of technological innovations or new products by us or our competitors, changes in financial estimates and recommendations by securities analysts, the operating and stock price performance of other companies that investors may deem comparable to us, and new reports relating to trends in our markets or general economic conditions. Furthermore, stock markets at times have experienced price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions, such as recessions, interest rate changes or international currency fluctuations, may negatively affect the market price of our common stock, regardless of our operating performance. Holders who receive common stock upon conversion of the Notes also will be subject to the risk of volatility and depressed prices of our common stock.



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In addition, in the past, many companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may become the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business.

*Our financial results may vary significantly from quarter to quarter due to a number of factors, which may lead to volatility in our stock price and the trading price of the Notes.*

Our quarterly revenue and results of operations have varied in the past and may continue to vary significantly from quarter to quarter. This variability may continue to lead to volatility in our stock price as research analysts and investors respond to these quarterly fluctuations. This volatility may affect the price at which you could sell the common stock you receive upon conversion of your Notes as well as the value of your Notes.

These fluctuations are due to numerous factors, including:

- seasonal and other fluctuations in demand for our products;
- the timing, volume and product mix of sales of our products, which may have different average selling prices or profit margins;
- changes in our pricing and sales policies or the pricing and sales policies of our competitors;
- our ability to design, manufacture and deliver products to our customers in a timely and cost-effective manner and that meet customer requirements;
- our ability to manage our relationships with our contract manufacturers, customers and suppliers;
- quality control or yield problems in our manufacturing operations;
- the anticipation, announcement or introductions of new or enhanced products by our competitors and ourselves;

- reductions in the retail price of electricity;
- changes in laws, regulations and policies applicable to our business and products, particularly those relating to government incentives for solar energy applications;
- the impact of tariffs on the solar industry in general and on our products in particular;
- unanticipated increases in costs or expenses;
- the amount and timing of operating costs and capital expenditures related to the maintenance and expansion of our business operations;
- the impact of government-sponsored programs on our customers;
- our exposure to the credit risks of our customers, particularly in light of the fact that some of our customers are relatively new entrants to the solar market without long operating or credit histories;

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- our ability to estimate future warranty obligations due to product failure rates, claim rates or replacement costs;
- our ability to forecast our customer demand and manufacturing requirements, and manage our inventory;
- fluctuations in our gross profit;
- our ability to predict our revenue and plan our expenses appropriately;
- fluctuations in foreign currency exchange rates;
- announcement of acquisitions or dispositions of our assets or business operations;
- issuances of our common stock or equity-linked securities such as the Notes;
- changes in our management; and
- analyst reports or other news articles.

The foregoing factors are difficult to forecast, and these, as well as other factors, could materially and adversely affect our quarterly and annual results of operations. Any failure to adjust spending quickly enough to compensate for a revenue shortfall could magnify the adverse impact of this revenue shortfall on our results of operations. Moreover, our results of operations may not meet our announced guidance or the expectations of research analysts or investors, in which case the price of our common stock and the trading price of the notes Notes decrease significantly. There can be no assurance that we will be able to successfully address these risks.

***If research analysts do not publish research about our business or if they issue unfavorable commentary or downgrade our common stock, our stock price and trading volume, and the trading price of the Notes, could decline.***

The trading market for our common stock depends in part on the research and reports that research analysts publish about us and our business. The price of our common stock could decline if one or more research analysts downgrade our stock or if those analysts issue other unfavorable

commentary or cease publishing reports about us or our business. If one or more of the research analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our common stock could decrease, which could cause our stock price or trading volume, and the trading price of the Notes, to decline.

***If we fail to meet the continued listing standards of Nasdaq, our common stock may be delisted, which could have a material adverse effect on the liquidity and market price of our common stock and the trading price of the Notes.***

Our common stock is currently traded on The Nasdaq Global Market. The Nasdaq Stock Market LLC (the Nasdaq ) has requirements that a company must meet in order to remain listed. There can be no assurance that we will continue to meet these requirements in the future. If we fail to meet any such requirements, the Nasdaq may initiate a delisting process. If our common stock were to be delisted, the liquidity of our common stock would be adversely affected and the market price of our common stock and the trading price of the Notes could decrease significantly.

In addition, if we were to be delisted from the Nasdaq, the delisting would constitute a fundamental change under the indenture governing the Notes, which would require us to offer to repurchase the Notes. However, we may not have sufficient cash to repurchase the Notes and the payment of the fundamental change repurchase price may be restricted by the terms of our future debt instruments. See We may not have the ability to raise the funds necessary to repurchase the Notes upon a fundamental change, and our future debt may contain limitations on our ability to repurchase the Notes.

***Our affiliated stockholders, executive officers and directors own a significant percentage of our stock, and they may take actions that our other stockholders may not view as beneficial.***

Our affiliated stockholders, executive officers and directors collectively own a significant percentage of our common stock. This significant concentration of share ownership may adversely affect the trading price for our common stock and the Notes because investors often perceive disadvantages in owning stock in companies with controlling stockholders. Also, as a result, these stockholders, acting together, may be able to control our management and affairs and matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions, such as mergers, consolidations or the sale of substantially all of our assets. Consequently, this concentration of ownership may have the effect of delaying or preventing a change in control, including a merger, consolidation or other business combination involving us, or discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control, even if this change in control would benefit our other stockholders.

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*We currently do not intend to pay dividends on our common stock and, consequently, your only opportunity to achieve a return on the shares of our common stock you receive upon conversion of your Notes is if the price of our common stock appreciates.*

We currently do not plan to declare dividends on shares of our common stock in the foreseeable future. Consequently, investors in the Notes or our common stock only have an opportunity to achieve a return on the shares of our common stock they hold or receive upon conversion if the market price of our common stock appreciates and the investor sells its shares at a profit.

*Our charter documents and Delaware law could prevent a takeover that stockholders consider favorable and could also reduce the market price of our stock and the value of the Notes.*

Our certificate of incorporation and our bylaws contain provisions that could delay or prevent a change in control of our company. These provisions could also make it more difficult for stockholders to elect directors and take other corporate actions, including effecting changes in our management. These provisions include:

- providing for a classified board of directors with staggered, three-year terms, which could delay the ability of stockholders to change the membership of a majority of our board of directors;
- not providing for cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates;
- authorizing our board of directors to issue, without stockholder approval, preferred stock rights senior to those of common stock, which could be used to significantly dilute the ownership of a hostile acquiror;
- prohibiting stockholder action by written consent, which forces stockholder action to be taken at an annual or special meeting of our stockholders;
- requiring the affirmative vote of holders of at least 66(2)/3% of the voting power of all of the then outstanding shares of voting stock, voting as a single class, to amend provisions of our certificate of incorporation relating to the management of our business, our board of directors, stockholder action by written consent, advance notification of stockholder nominations and proposals, forum selection and the liability of our directors, or to amend our bylaws, which may inhibit the ability of stockholders or an acquiror to effect such amendments to facilitate changes in management or an unsolicited takeover attempt;

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- requiring special meetings of stockholders may only be called by our chairman of the board, if any, our chief executive officer, our president or a majority of our board of directors, which could delay the ability of our stockholders to force consideration of a proposal or to take action, including removal of directors; and
- requiring advance notification of stockholder nominations and proposals, which may discourage or deter a potential acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to obtain control of us.

In addition, the provisions of Section 203 of the Delaware General Corporation Law may prohibit large stockholders, in particular those owning 15% or more of our outstanding common stock, from engaging in certain business combinations, without approval of substantially all of our stockholders, for a certain period of time.

These provisions in our certificate of incorporation, our bylaws and under Delaware law could discourage potential takeover attempts, reduce the price that investors might be willing to pay for shares of our common stock in the future and result in the market price for our common stock and the trading price of the Notes being lower than it would be without these provisions.

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**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus, any prospectus supplement and the documents incorporated by reference herein or any such prospectus supplement include forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and the Private Securities Litigation Reform Act of 1995. Also, documents that we incorporate by reference into this prospectus that we subsequently file with the SEC will include forward-looking statements. Forward-looking statements are those that predict or describe future events or trends and that do not relate solely to historical matters. You can generally identify forward-looking statements as statements containing the words may, will, could, should, expect, anticipate, intend, believe, project, plan, assume or other similar expressions, or negatives of those expressions, although not all forward-looking statements contain these identifying words. All statements contained in or incorporated by reference into this prospectus regarding future operating or financial performance, business strategies, technology developments, financing and investment plans, competitive position, industry and regulatory environment, potential growth opportunities, the effects of competition, expense levels, liquidity sources, timing of new product releases, and with respect to our completed transactions under the Asset Purchase Agreement with SunPower Corporation, or SunPower, involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements. Some of the factors that we believe could affect our results include:

- our ability to improve our liquidity and to achieve profitability;
- our ability to reduce product costs and operating expenses;
- the future demand for solar energy solutions;
- the reduction, elimination or expiration of government subsidies and economic incentives for on-grid solar electricity applications;
- the impact of tariffs and other government actions on the solar industry, our products and international trade;
- our ability to achieve and realize the anticipated benefits of the Master Supply Agreement with SunPower that became effective upon the closing of the transactions under the Asset Purchase Agreement with SunPower;
- our ability to achieve broader market acceptance of our microinverter systems;

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- our reliance on sole-source and limited-source suppliers for key components and products;
- changes in the retail price of electricity derived from the utility grid or alternative energy sources;
- our ability to raise additional capital on favorable terms to execute on our current or future business opportunities;
- changes in international trade policy or the imposition of new laws or regulations that materially harm our business;
- the threat of global economic, capital markets and credit disruptions that pose risks for our business;
- our ability to retain key personnel and effectively manage our workforce during our planned expansion into new markets;
- the ability of potential owners of solar PV systems to secure financing on acceptable terms;
- change in seasonal trends, natural disasters, construction cycles, terrorist or cyber-attacks, or other catastrophic events;
- our ability to develop new and enhanced products in response to customer demands and rapid market and technological changes in the solar industry;



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- our ability to compete effectively with existing and new competitors; and
- the success of competing solar solutions that are or become available.

While we believe that we have a reasonable basis for each forward-looking statement, we caution you that these statements are based on a combination of facts and factors currently known by us and our projections of the future, about which we cannot be certain. We discuss many of these risks, uncertainties and other factors in greater detail under the heading **Risk Factors** contained in our annual report on Form 10-K for the fiscal period ended December 31, 2018, filed with the SEC on March 15, 2019, and incorporated by reference in this prospectus, as the same may be amended, supplemented or superseded by the risks and uncertainties described under similar headings in the other documents that we file after the date hereof and are incorporated by reference into this prospectus. Given these risks, uncertainties and other factors, you should not place undue reliance on these forward-looking statements. Also, these forward-looking statements represent our estimates and assumptions only as of the date such forward-looking statements are made. You should carefully read this prospectus, together with the information incorporated herein by reference as described under the heading **Incorporation of Certain Information by Reference**, completely and with the understanding that our actual future results may be materially different from what we expect. We can give no assurances that any of the events anticipated by the forward-looking statements will occur or, if any of them do, what impact they will have on our business, results of operations and financial condition. We hereby qualify all of our forward-looking statements by these cautionary statements.

Except as required by law, we assume no obligation to update these forward-looking statements publicly, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future. We claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 for all forward-looking statements.

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**USE OF PROCEEDS**

We will not receive any of the proceeds from the sale of the Affiliate Notes or shares of our common stock issuable upon conversion of the Affiliate Notes by the Selling Securityholder.

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Our common stock trades on The Nasdaq Global Market under the symbol ENPH. The following table lists the high and low intraday sales prices (per share) of our common stock as reported by The Nasdaq Global Market for the periods indicated.

|  | High    | Low     |
|--|---------|---------|
| <b>Fiscal Year ended December 31, 2017:</b>  |         |         |
| First Quarter                                | \$ 2.03 | \$ 1.01 |
| Second Quarter                               | 1.41    | 0.65    |
| Third Quarter                                | 1.67    | 0.76    |
| Fourth Quarter                               | 3.45    | 1.24    |
| <b>Fiscal Year ended December 31, 2018:</b>  |         |         |
| First Quarter                                | \$ 5.58 | \$ 1.83 |
| Second Quarter                               | 7.55    | 3.81    |
| Third Quarter                                | 7.60    | 3.70    |
| Fourth Quarter                               | 6.34    | 4.06    |
| <b>Fiscal Year ending December 31, 2019:</b> |         |         |
| First Quarter                                | \$ 9.70 | \$ 4.61 |
| Second Quarter (through April 8, 2019)       | 10.25   | 9.05    |

The last reported sale price of our common stock on The Nasdaq Global Market on April 8, 2019 was \$10.24 per share.

**DIVIDEND POLICY**

We have never declared or paid any cash dividends and do not presently plan to pay cash dividends in the foreseeable future. Any future determination as to the payment of dividends will be at the sole discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements and other factors that our board of directors deems relevant.

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**DESCRIPTION OF THE AFFILIATE NOTES**

We issued the Affiliate Notes under the Indenture originally dated August 17, 2018 between us and U.S. Bank National Association, as trustee (the trustee ).

The following description is a summary of the material provisions of the Affiliate Notes and the Indenture and does not purport to be complete. This summary is subject to and is qualified by reference to all of the provisions of the Affiliate Notes, the Primary Offering Notes and the Indenture, including the definitions of certain terms used in the Indenture. We urge you to read these documents because they, and not this description, define your rights as a holder of the Affiliate Notes.

You may request a copy of the Indenture from us as described under [Where You Can Find More Information](#).

For purposes of the description under this [Description of the Affiliate Notes](#), references to [Enphase](#), [we](#), [our](#) and [us](#) refer only to Enphase Energy, Inc. and not to our subsidiaries.

**General**

The Affiliate Notes:

- [are](#) our general unsecured, senior obligations;
- [have](#) an aggregate principal amount of \$5.0 million;
- [bear](#) cash interest from August 17, 2018 at an annual rate of 4.00% payable semiannually on February 1 and August 1 of each year, beginning on February 1, 2019;
- [are](#) not be redeemable prior to maturity;

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- are subject to repurchase by us at the option of the holders following a fundamental change occurring prior to the maturity date (as defined below under Fundamental Change Permits Holders to Require Us to Repurchase Notes ) at a repurchase price equal to 100% of the principal amount of the Affiliate Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the relevant fundamental change repurchase date;
- mature on August 1, 2023, unless earlier converted or repurchased in accordance with their terms; and
- were issued in minimum denominations of \$1,000 and multiples of \$1,000.

Subject to satisfaction of certain conditions, the Affiliate Notes may be converted at an initial conversion rate of 180.0180 shares of common stock per \$1,000 principal amount of the Affiliate Notes (equivalent to an initial conversion price of approximately \$5.56 per share of common stock). The conversion rate is subject to adjustment if certain events occur.

Upon conversion of an Affiliate Note, we will deliver shares of our common stock, together with a cash payment in lieu of delivering any fractional share, as described under Conversion Rights Settlement upon Conversion. You will not receive any separate cash payment for interest, if any, accrued and unpaid to the conversion date except under the limited circumstances described below.

The Indenture does not limit the amount of debt that may be issued by us or our subsidiaries under the Indenture or otherwise. The Indenture does not contain any financial covenants and does not restrict us from paying dividends or issuing or repurchasing our other securities. Other than restrictions described under Fundamental Change Permits Holders to Require Us to Repurchase Notes and Consolidation, Merger or Sale of Assets below and except for the provisions set forth under Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change, the Indenture does not contain any covenants or other provisions designed to afford holders of the Notes protection in the event of a highly leveraged transaction involving us or in the event of a decline in our credit rating as the result of a takeover, recapitalization, highly leveraged transaction or similar restructuring involving us that could adversely affect such holders.

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We may, without the consent of the holders, reopen the Indenture and issue additional Notes under the Indenture with the same terms as the Affiliate Notes and the Primary Offering Notes (other than differences in the issue date, the issue price and interest accrued prior to the issue date of such additional Notes and, if applicable, restrictions on transfer of such additional Notes) in an unlimited aggregate principal amount; provided that if any such additional Notes are not fungible with the Primary Offering Notes for U.S. federal income tax purposes, such additional Notes will have one or more separate CUSIP numbers.

We do not intend to list the Notes, including the Affiliate Notes, on any securities exchange or any automated dealer quotation system.

**Purchase and Cancellation**

We will cause all Affiliate Notes surrendered for payment, repurchase (including as described below), registration of transfer or exchange or conversion, if surrendered to any person other than the trustee (including any of our agents, subsidiaries or affiliates), to be delivered to the trustee for cancellation. All Affiliate Notes delivered to the trustee shall be cancelled promptly by the trustee. Except for Notes surrendered for transfer or exchange, no Affiliate Notes shall be authenticated in exchange for any Affiliate Notes cancelled as provided in the Indenture.

We may, to the extent permitted by law, and directly or indirectly (regardless of whether such Affiliate Notes are surrendered to us), repurchase the Affiliate Notes in the open market or otherwise, whether by us or our subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash-settled swaps or other derivatives. We will cause any Affiliate Notes so repurchased (other than Affiliate Notes repurchased pursuant to cash-settled swaps or other derivatives) to be surrendered to the trustee for cancellation, and they will no longer be considered outstanding under the Indenture upon their surrender to the trustee.

**Payments on the Notes; Paying Agent and Registrar; Transfer and Exchange**

We will pay or cause the paying agent to pay the principal of, and interest on, Notes in global form registered in the name of or held by The Depository Trust Company ( DTC ) or its nominee by wire transfer in immediately available funds to DTC or its nominee, as the case may be, as the registered holder of such global note.

We will pay or cause the paying agent to pay the principal of any certificated Notes at the office or agency designated by us for that purpose. We have initially designated the trustee as our paying agent and registrar and its agency in the United States as a place where Notes may be presented for payment or for registration of transfer. We may, however, change the paying agent or registrar without prior notice to the holders of the Notes, and we may act as paying agent or registrar. Interest on certificated Notes will be payable (i) to holders having an aggregate principal amount of \$5,000,000 or less, by check mailed to the holders of these Notes and (ii) to holders having an aggregate principal amount of more than \$5,000,000, either by check mailed to each holder or, upon application by such a holder to the registrar not later than the relevant regular record date, by wire transfer in immediately available funds to that holder's account within the United States, which application shall remain in effect until the holder notifies, in writing, the registrar to the contrary.

A holder of Notes may transfer or exchange Notes at the office of the registrar in accordance with the Indenture. The registrar and the trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents. No service charge will be imposed by us,

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the trustee or the registrar for any registration of transfer or exchange of notes, but we may require a holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required by law or permitted by the Indenture. We are not required to transfer or exchange any note surrendered for conversion or required repurchase.

The registered holder of a Note will be treated as its owner for all purposes.

### **Interest**

The Affiliate Notes will bear cash interest at a rate of 4.00% per year until maturity. Interest on the Affiliate Notes will accrue from August 17, 2018 or from the most recent date on which interest has been paid or duly provided for. Interest will be payable semiannually in arrears on February 1 and August 1 of each year, beginning on February 1, 2019.

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Interest will be paid to the person in whose name an Affiliate Note is registered at the close of business on January 15 or July 15, as the case may be, immediately preceding the relevant interest payment date (each, a regular record date). Interest on the Affiliate Notes will be computed on the basis of a 360-day year composed of twelve 30-day months, and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

If any interest payment date, the maturity date or any earlier required fundamental change repurchase date of an Affiliate Note falls on a day that is not a business day, the required payment will be made on the next succeeding business day and no interest on such payment will accrue in respect of the delay. The term business day means, with respect to any Note, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

Unless the context otherwise requires, all references to interest in herein include additional interest, if any, payable pursuant to the Indenture and the Notes and at our election as the sole remedy relating to the failure to comply with our reporting obligations as described under Events of Default.

**Ranking**

The Affiliate Notes will be our general unsecured obligations that rank senior in right of payment to all of our indebtedness that is expressly subordinated in right of payment to the Affiliate Notes. The Affiliate Notes will rank equal in right of payment with all of our liabilities that are not so subordinated. The Affiliate Notes will effectively rank junior to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness. In the event of our bankruptcy, liquidation, reorganization or other winding up, our assets that secure secured debt will be available to pay obligations on the Notes only after all indebtedness under such secured debt has been repaid in full. The Affiliate Notes will rank structurally junior to all indebtedness and other liabilities of our subsidiaries. We advise you that there may not be sufficient assets remaining to pay amounts due on any or all the Affiliate Notes then outstanding.

The ability of our subsidiaries to pay dividends and make other payments to us is also restricted by, among other things, applicable corporate and other laws and regulations as well as agreements to which our subsidiaries may become a party. We may not be able to pay cash for the fundamental change repurchase price if a holder requires us to repurchase Notes upon a fundamental change as described below. See Risk Factors Risks Related to the Notes We may not have the ability to raise the funds necessary to repurchase the Notes upon a fundamental change, and our future debt may contain limitations on our ability to repurchase the notes.

**No Redemption**

We may not redeem the Affiliate Notes prior to the maturity date, and no sinking fund is provided for the Notes, which means that we are not required to redeem or retire the Notes periodically.

**Conversion Rights**



**General**

Holders may convert all or any portion of their Affiliate Notes at their option at any time prior to the close of business on the business day immediately preceding the maturity date.

The conversion rate for the Affiliate Notes will initially be 180.0180 shares of common stock per \$1,000 principal amount of the Affiliate Notes (equivalent to an initial conversion price of approximately \$5.56 per share of common stock). Upon conversion of a Note, we will satisfy our conversion obligation by delivering shares of our common stock, together with a cash payment in lieu of delivering any fractional share, as set forth below under Settlement upon Conversion. We will settle our conversion obligation on the second business day immediately following the relevant conversion date. The trustee will initially act as the conversion agent.

A holder may convert fewer than all of such holder's Affiliate Notes so long as the Affiliate Notes converted are a multiple of \$1,000 principal amount.

If a holder of Affiliate Notes has submitted Notes for purchase upon a fundamental change, the holder may convert those Notes only if that holder first withdraws its fundamental change purchase notice.

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Upon conversion, you will not receive any separate cash payment for accrued and unpaid interest, if any, except as described below. We will not issue fractional shares of our common stock upon conversion of the Affiliate Notes. Instead, we will pay cash in lieu of delivering any fractional share as described under Settlement upon Conversion. Our delivery to you of the full number of shares, together with a cash payment for any fractional share, into which a Note is convertible will be deemed to satisfy in full our obligation to pay:

- the principal amount of the Affiliate Note; and
- accrued and unpaid interest, if any, to, but not including, the relevant conversion date.

As a result, accrued and unpaid interest, if any, to, but not including, the relevant conversion date will be deemed to be paid in full rather than cancelled, extinguished or forfeited.

Notwithstanding the immediately preceding paragraph, if the Affiliate Notes are converted after the close of business on a regular record date for the payment of interest, holders of such Notes at the close of business on such regular record date will receive the full amount of interest payable on such Notes on the corresponding interest payment date notwithstanding the conversion. Affiliate Notes surrendered for conversion during the period from the close of business on any regular record date to the open of business on the immediately following interest payment date must be accompanied by funds equal to the amount of interest payable on the Notes so converted; provided that no such payment need be made:

- for conversions following the regular record date immediately preceding the maturity date;
- if we have specified a fundamental change repurchase date that is after a regular record date and on or prior to the business day immediately succeeding the corresponding interest payment date; or
- to the extent of any overdue interest, if any overdue interest exists at the time of conversion with respect to such Note.

Therefore, for the avoidance of doubt, all record holders of Affiliate Notes on the regular record date immediately preceding the maturity date will receive the full interest payment due on the maturity date in cash regardless of whether their Notes have been converted following such regular record date.

***Conversion Procedures***

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If you hold a beneficial interest in a global note, to convert you must comply with DTC's procedures for converting a beneficial interest in a global note and, if required, pay funds equal to interest payable on the next interest payment date to which you are not entitled. As such, if you are a beneficial owner of the Notes, you must allow for sufficient time to comply with DTC's procedures if you wish to exercise your conversion rights.

If you hold a certificated Note, to convert you must:

- complete and manually sign the conversion notice on the back of the Note, or a facsimile of the conversion notice;
- deliver the conversion notice, which is irrevocable, and the Note to the conversion agent;
- if required, furnish appropriate endorsements and transfer documents; and
- if required, pay funds equal to interest payable on the next interest payment date to which you are not entitled.

We will pay any documentary, stamp or similar issue or transfer tax on the issuance of the shares of our common stock upon conversion of the Notes, unless the tax is due because the holder requests such shares to be issued in a name other than the holder's name, in which case the holder will pay the tax.

We refer to the date you comply with the relevant procedures for conversion described above as the conversion date.

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If a holder has already delivered a repurchase notice as described under **Fundamental Change Permits Holders to Require Us to Repurchase Notes** with respect to a Note, the holder may not surrender that Note for conversion until the holder has withdrawn the repurchase notice in accordance with the relevant provisions of the Indenture. If a holder submits its Notes for required repurchase, the holder's right to withdraw the fundamental change repurchase notice and convert the Notes that are subject to repurchase will terminate at the close of business on the business day immediately preceding the relevant fundamental change repurchase date.

***Settlement upon Conversion***

Upon conversion, we will deliver to holders in respect of each \$1,000 principal amount of Notes being converted a number of shares of our common stock equal to the conversion rate, together with a cash payment in lieu of delivering any fractional share of common stock issuable upon conversion based on the last reported sale price of our common stock on the relevant conversion date. We will deliver the consideration due in respect of conversion on the second business day immediately following the relevant conversion date.

Each conversion will be deemed to have been effected as to any Notes surrendered for conversion on the conversion date, and the person in whose name the shares of our common stock shall be issuable upon such conversion will become the holder of record of such shares as of the close of business on such conversion date.

The last reported sale price of our common stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which our common stock is traded. If our common stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date, the last reported sale price will be the last quoted bid price for our common stock in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If our common stock is not so quoted, the last reported sale price will be the average of the mid-point of the last bid and ask prices for our common stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by us for this purpose.

***Conversion Rate Adjustments***

The conversion rate will be adjusted as described below, except that we will not make any adjustments to the conversion rate if holders of the Notes participate (other than in the case of (x) a share split or share combination or (y) a tender or exchange offer), at the same time and upon the same terms as holders of our common stock and solely as a result of holding the Notes, in any of the transactions described below without having to convert their Notes as if they held a number of shares of common stock equal to the conversion rate, multiplied by the principal amount (expressed in thousands) of Notes held by such holder.

(1) If we exclusively issue shares of our common stock as a dividend or distribution on shares of our common stock, or if we effect a share split or share combination, the conversion rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times [OS_1 / OS_0]$$

where,

$CR_0$  = the conversion rate in effect immediately prior to the close of business on the record date (as defined below) of such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as applicable;

$CR_1$  = the conversion rate in effect immediately after the close of business on such record date or immediately after the open of business on such effective date, as applicable;

$OS_0$  = the number of shares of our common stock outstanding immediately prior to the close of business on such record date or immediately prior to the open of business on such effective date, as applicable (before giving effect to any such dividend, distribution, split or combination); and

$OS_1$  = the number of shares of our common stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

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Any adjustment made under this clause (1) shall become effective immediately after the close of business on the record date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as applicable. If any dividend or distribution of the type described in this clause (1) is declared but not so paid or made, the conversion rate shall be immediately readjusted, effective as of the date our board of directors or a committee thereof determines not to pay such dividend or distribution to the conversion rate that would then be in effect if such dividend or distribution had not been declared.

(2) If we issue to all or substantially all holders of our common stock any rights, options or warrants entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of our common stock at a price per share that is less than the average of the last reported sale prices of our common stock for the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of such issuance, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times [OS_0 + X] / [OS_0 + Y]$$

where,

CR<sub>0</sub> = the conversion rate in effect immediately prior to the close of business on the record date for such issuance;

CR<sub>1</sub> = the conversion rate in effect immediately after the close of business on such record date;

OS<sub>0</sub> = the number of shares of our common stock outstanding immediately prior to the close of business on such record date;

X = the total number of shares of our common stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of our common stock equal to the aggregate price payable to exercise such rights, options or warrants, *divided by* the average of the last reported sale prices of our common stock over the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of the issuance of such rights, options or warrants.

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Any increase made under this clause (2) will be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the close of business on the record date for such issuance. To the extent that shares of common stock are not delivered after the expiration of such rights, options or warrants, the conversion rate shall be decreased to the conversion rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of common stock actually delivered. If such rights, options or warrants are not so issued, the conversion rate shall be decreased to the conversion rate that would then be in effect if such record date for such issuance had not occurred.

For the purpose of this clause (2), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of our common stock at less than such average of the last reported sale prices for the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of such issuance, and in determining the aggregate offering price of such shares of common stock, there shall be taken into account any consideration received by us for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by our board of directors or a committee thereof.

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(3) If we distribute shares of our capital stock, evidences of our indebtedness, other assets or property of ours or rights, options or warrants to acquire our capital stock or other securities, to all or substantially all holders of our common stock, excluding:

- dividends, distributions or issuances as to which an adjustment was effected pursuant to clause (1) or (2) above;
- payments in respect of tender or exchange offers as to which an adjustment was effected pursuant to clause (5) below;
- dividends or distributions paid exclusively in cash as to which an adjustment was effected pursuant to clause (4) below;
- distributions of reference property in a transaction described in Recapitalizations, Reclassifications, and Changes of Our Common Stock; and
- spin-offs as to which the provisions set forth below in this clause (3) shall apply;

then the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times SP_0 / [SP_0 - FMV]$$

where,

CR<sub>0</sub> = the conversion rate in effect immediately prior to the close of business on the record date for such distribution;

CR<sub>1</sub> = the conversion rate in effect immediately after the close of business on such record date;



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SP<sub>0</sub> = the average of the last reported sale prices of our common stock over the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the ex-dividend date for such distribution; and

FMV = the fair market value (as determined by our board of directors or a committee thereof) of the shares of capital stock, evidences of indebtedness, assets, property, rights, options or warrants distributed with respect to each outstanding share of our common stock on the record date for such distribution.

Any increase made under the portion of this clause (3) above will become effective immediately after the close of business on the record date for such distribution. If such distribution is not so paid or made, the conversion rate shall be decreased to be the conversion rate that would then be in effect if such distribution had not been declared.

Notwithstanding the foregoing, if FMV (as defined above) is equal to or greater than SP<sub>0</sub> (as defined above), in lieu of the foregoing increase, each holder of a Note shall receive, in respect of each \$1,000 principal amount thereof, at the same time and upon the same terms as holders of our common stock, the amount and kind of our capital stock, evidences of our indebtedness, other assets or property of ours or rights, options or warrants to acquire our capital stock or other securities that such holder would have received if such holder owned a number of shares of common stock equal to the conversion rate in effect on the record date for the distribution.

With respect to an adjustment pursuant to this clause (3) where there has been a payment of a dividend or other distribution on our common stock of shares of capital stock of any class or series, or similar equity interest, of or relating to a subsidiary or other business unit, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange, which we refer to as a spin-off, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times [FMV_0 + MP_0] / MP_0$$

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where,

CR<sub>0</sub> = the conversion rate in effect immediately prior to the end of the valuation period (as defined below);

CR<sub>1</sub> = the conversion rate in effect immediately after the end of the valuation period;

FMV<sub>0</sub> = the average of the last reported sale prices of the capital stock or similar equity interest distributed to holders of our common stock applicable to one share of our common stock (determined by reference to the definition of last reported sale price set forth under Settlement upon Conversion as if references therein to our common stock were to such capital stock or similar equity interest) over the first 10 consecutive trading day period after, and including, the ex-dividend date of the spin-off (the valuation period); and

MP<sub>0</sub> = the average of the last reported sale prices of our common stock over the valuation period.

The adjustment to the conversion rate under the preceding paragraph will occur at the close of business on the last trading day of the valuation period; provided that in respect of any conversion of Notes during the valuation period, the reference to 10 in the preceding paragraph shall be deemed replaced with such lesser number of trading days as have elapsed between the ex-dividend date of such spin-off and the conversion date in determining the conversion rate.

(4) If any cash dividend or distribution is made to all or substantially all holders of our common stock (excluding, for the avoidance of doubt, cash payments in respect of tender or exchange offers to which clause (5) below shall apply), the conversion rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times SP_0 / [SP_0 - C]$$

where,

CR<sub>0</sub> = the conversion rate in effect immediately prior to the close of business on the record date for such dividend or distribution;

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CR1 = the conversion rate in effect immediately after the close of business on the record date for such dividend or distribution;

SP0 = the daily volume-weighted average price of our common stock on the trading day immediately preceding the ex-dividend date for such dividend or distribution; and

C = the amount in cash per share we distribute to all or substantially all holders of our common stock.

Any increase made under this clause (4) shall become effective immediately after the close of business on the record date for such dividend or distribution. If such dividend or distribution is not so paid, the conversion rate shall be decreased, effective as of the date our board of directors or a committee thereof determines not to make or pay such dividend or distribution, to be the conversion rate that would then be in effect if such dividend or distribution had not been declared.

Notwithstanding the foregoing, if C (as defined above) is equal to or greater than SP0 (as defined above), in lieu of the foregoing increase, each holder of a Note shall receive, for each \$1,000 principal amount of Notes, at the same time and upon the same terms as holders of shares of our common stock, the amount of cash that such holder would have received if such holder owned a number of shares of our common stock equal to the conversion rate on the record date for such cash dividend or distribution.

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(5) If we or any of our subsidiaries make a payment in respect of a tender or exchange offer for our common stock, to the extent that the cash and value of any other consideration included in the payment per share of common stock exceeds the average of the last reported sale prices of our common stock over the 10 consecutive trading day period commencing on, and including, the trading day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times [AC + (SP_1 \times OS_1)] / [OS_0 \times SP_1]$$

where,

CR<sub>0</sub> = the conversion rate in effect immediately prior to the close of business on the 10th trading day immediately following, and including, the trading day next succeeding the date such tender or exchange offer expires;

CR<sub>1</sub> = the conversion rate in effect immediately after the close of business on the 10th trading day immediately following, and including, the trading day next succeeding the date such tender or exchange offer expires;

AC = the aggregate value of all cash and any other consideration (as determined by our board of directors or a committee thereof) paid or payable for shares purchased in such tender or exchange offer;

OS<sub>0</sub> = the number of shares of our common stock outstanding immediately prior to the date such tender or exchange offer expires (prior to giving effect to the purchase of all shares accepted for purchase or exchange in such tender or exchange offer);

OS<sub>1</sub> = the number of shares of our common stock outstanding immediately after the date such tender or exchange offer expires (after giving effect to the purchase of all shares accepted for purchase or exchange in such tender or exchange offer); and

SP<sub>1</sub> = the average of the last reported sale prices of our common stock over the 10 consecutive trading day period commencing on, and including, the trading day next succeeding the date such tender or exchange offer expires.

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The adjustment to the conversion rate under the preceding paragraph will occur at the close of business on the 10th trading day immediately following, and including, the trading day next succeeding the date such tender or exchange offer expires; provided that if the relevant conversion date occurs during the 10 trading days immediately following, and including, the trading day next succeeding the expiration date of any tender or exchange offer, references to 10 or 10th in the preceding paragraph shall be deemed replaced with such lesser number of trading days as have elapsed between the expiration date of such tender or exchange offer and such conversion date in determining the conversion rate.

Notwithstanding the foregoing, if a conversion rate adjustment becomes effective as described above, and a holder that has converted its Notes on or after the relevant ex-dividend date and on or prior to the related record date would be treated as the record holder of shares of our common stock as of the related conversion date as described under Settlement upon Conversion based on an adjusted conversion rate for such ex-dividend date, then, notwithstanding the foregoing conversion rate adjustment provisions, the conversion rate adjustment relating to such ex-dividend date will not be made for such converting holder. Instead, such holder will be treated as if such holder were the record owner of the shares of our common stock on an unadjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

Except as stated herein, we will not adjust the conversion rate for the issuance of shares of our common stock or any securities convertible into or exchangeable for shares of our common stock or the right to purchase shares of our common stock or such convertible or exchangeable securities.

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As used in this section, **ex-dividend date** means the first date on which the shares of our common stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from us or, if applicable, from the seller of our common stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market, and **effective date** means the first date on which the shares of our common stock trade on the applicable exchange or in the applicable market, regular way, reflecting the relevant share split or share combination, as applicable.

As used in this section, **record date** means, with respect to any dividend, distribution or other transaction or event in which the holders of our common stock (or other applicable security) have the right to receive any cash, securities or other property or in which our common stock (or such other security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of our common stock (or such other security) entitled to receive such cash, securities or other property (whether such date is fixed by our board of directors or a duly authorized committee thereof, statute, contract or otherwise).

As used in this section, **daily volume-weighted average price** means the per share volume-weighted average price as displayed under the heading **Bloomberg VWAP** on Bloomberg page **ENPH <equity> AQR** (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such trading day (or if such volume-weighted average price is unavailable, the market value of one share of our common stock on such trading day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by us). The **daily volume-weighted average price** will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

Subject to the applicable listing standards of The Nasdaq Global Market, we are permitted to increase the conversion rate for the Notes by any amount for a period of at least 20 business days if our board of directors or a committee thereof determines that such increase would be in our best interest. Subject to the applicable listing standards of The Nasdaq Global Market, we may also (but are not required to) increase the conversion rate to avoid or diminish income tax to holders of our common stock or rights to purchase shares of our common stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event.

A holder may, in some circumstances, including a distribution of cash dividends to holders of our shares of common stock, be deemed to have received a distribution subject to U.S. federal income tax as a result of an adjustment or the nonoccurrence of an adjustment to the conversion rate.

If we have a rights plan in effect upon conversion of the Notes into common stock, you will receive, in addition to the shares of common stock received in connection with such conversion, the rights under the rights plan. However, if, prior to any conversion, the rights have separated from the shares of common stock in accordance with the provisions of the applicable rights plan, the conversion rate for the Notes will be adjusted at the time of separation as if we distributed to all or substantially all holders of our common stock, shares of our capital stock, evidences of indebtedness, assets, property, rights, options or warrants as described in clause (3) above, subject to readjustment in the event of the expiration, termination or redemption of such rights.

Notwithstanding any of the foregoing, the conversion rate will not be adjusted:

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- upon the issuance of any shares of our common stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on our securities and the investment of additional optional amounts in shares of our common stock under any plan;
- upon the issuance of any shares of our common stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by us or any of our subsidiaries;
- upon the issuance of any shares of our common stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding bullet and outstanding as of the date the Notes were first issued;

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- upon the repurchase of any shares of our common stock pursuant to an open-market share repurchase program or other buy-back transaction that is not a tender offer or exchange offer of the nature described under clause (5) above;
- solely for a change in the par value of our common stock; or
- for accrued and unpaid interest, if any.

Adjustments to the conversion rate will be calculated to the nearest 1/10,000th of a share.

***Recapitalizations, Reclassifications and Changes of Our Common Stock***

In the case of:

- any recapitalization, reclassification or change of our common stock (other than changes resulting from a subdivision or combination),
- any consolidation, merger or combination involving us,
- any sale, lease or other transfer to a third party of the consolidated assets of ours and our subsidiaries substantially as an entirety, or
- any statutory share exchange,

in each case, as a result of which our common stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof), then, at and after the effective time of the transaction, we and/or the successor or purchasing company, as the case may be, will execute with the trustee a supplemental indenture, without the consent of holders, provided that the right to convert each \$1,000 principal amount of Notes will be changed into a right to convert such principal amount of Notes into the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of common stock equal to the conversion rate immediately prior to such transaction would have owned or been entitled to receive (the reference property ) upon such transaction. However, at and after the effective time of the transaction, the number of shares of our common stock otherwise deliverable upon conversion of the Notes as set forth under Settlement upon Conversion above will instead be deliverable in the amount and type



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of reference property that a holder of that number of shares of our common stock would have received in such transaction. If the transaction causes our common stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the reference property into which the Notes will be convertible will be deemed to be the weighted average of the types and amounts of consideration actually received by the holders of our common stock. We will notify holders, the trustee and the conversion agent (if other than the trustee) of the weighted average as soon as practicable after such determination is made.

The supplemental indenture providing that the Notes will be convertible into reference property will also provide for anti-dilution and other adjustments that are as nearly equivalent as possible to the adjustments described under Conversion Rate Adjustments above. If the reference property in respect of any such transaction includes shares of stock, securities or other property or assets of a company other than us or the successor or purchasing corporation, as the case may be, in such transaction, such other company will also execute such supplemental indenture, and such supplemental indenture will contain such additional provisions to protect the interests of the holders, including the right of holders to require us to repurchase their Notes upon a fundamental change as described under Fundamental Change Permits Holders to Require Us to Repurchase Notes below, as the board of directors reasonably considers necessary by reason of the foregoing. We will agree in the Indenture not to become a party to any such transaction unless its terms are consistent with the foregoing.

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*Adjustments of Prices*

Whenever any provision of the Indenture requires us to calculate the last reported sale prices over a span of multiple days (including, without limitation, the period, if any, for determining the stock price for purposes of a make-whole fundamental change), we will make appropriate adjustments to each to account for any adjustment to the conversion rate that becomes effective, or any event requiring an adjustment to the conversion rate where the record date, ex-dividend date, effective date or expiration date of the event occurs, at any time during the period when such last reported sale prices are to be calculated.

*Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change*

If the effective date (as defined below) of a fundamental change (as defined below and determined after giving effect to any exceptions to or exclusions from such definition, but without regard to the proviso in clause (2) of the definition thereof, a make-whole fundamental change) occurs prior to the maturity date, and a holder elects to convert its Notes in connection with such make-whole fundamental change, we will, under certain circumstances, increase the conversion rate for the Notes so surrendered for conversion by a number of additional shares of common stock (the additional shares), as described below. A conversion of Notes will be deemed for these purposes to be in connection with such make-whole fundamental change if the relevant notice of conversion of such Notes is received by the conversion agent from, and including, the effective date of the make-whole fundamental change up to, and including, the business day immediately prior to the related fundamental change repurchase date (or, in the case of a make-whole fundamental change that would have been a fundamental change but for the proviso in clause (2) of the definition thereof, the 35th trading day immediately following the effective date of such make-whole fundamental change) (such period, the make-whole fundamental change period).

Upon surrender of Notes for conversion in connection with a make-whole fundamental change, we will deliver shares of our common stock, including the additional shares, as described under Settlement upon Conversion. However, if the consideration for our common stock in any make-whole fundamental change described in clause (2) of the definition of fundamental change is composed entirely of cash, for any conversion of Notes following the effective date of such make-whole fundamental change, the conversion obligation will be calculated based solely on the stock price (as defined below) for the transaction and will be deemed to be an amount of cash per \$1,000 principal amount of converted Notes equal to the conversion rate (including any increase to reflect the additional shares as described in this section), multiplied by such stock price. We will notify holders, the trustee and the conversion agent (if other than the trustee) of the effective date of any make-whole fundamental change no later than five business days after such effective date.

The number of additional shares, if any, by which the conversion rate will be increased will be determined by reference to the table below, based on the date on which the make-whole fundamental change occurs or becomes effective (the effective date) and the price (the stock price) paid (or deemed to be paid) per share of our common stock in the make-whole fundamental change. If the holders of our common stock receive in exchange for their common stock only cash in a make-whole fundamental change described in clause (2) of the definition of fundamental change, the stock price will be the cash amount paid per share. Otherwise, the stock price will be the average of the last reported sale prices of our common stock over the five trading day period ending on, and including, the trading day immediately preceding the effective date of the make-whole fundamental change.

The stock prices set forth in the column headings of the table below will be adjusted as of any date on which the conversion rate for the Notes is otherwise adjusted. The adjusted stock prices will equal the stock prices immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the conversion rate immediately prior to the adjustment giving rise to the stock price adjustment and the denominator of which is the conversion rate as so adjusted. The number of additional shares as set forth in the table below will be adjusted in the same manner and at the same time as the conversion rate as set forth under Conversion Rate Adjustments.

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The following table sets forth the number of additional shares by which the conversion rate for the Affiliate Notes will be increased per \$1,000 principal amount of the Affiliate Notes for each stock price and effective date set forth below:

| Effective Date  | Stock Price |         |         |         |         |         |         |        |         |         |         |
|-----------------|-------------|---------|---------|---------|---------|---------|---------|--------|---------|---------|---------|
|                 | \$5.05      | \$5.25  | \$5.50  | \$5.75  | \$6.00  | \$7.00  | \$8.00  | \$9.00 | \$10.00 | \$15.00 | \$20.00 |
| August 17, 2018 | 18.0018     | 18.0018 | 18.0018 | 18.0018 | 18.0018 | 15.4053 | 11.8361 | 9.3557 | 7.4882  | 2.3303  | 0.3554  |
| August 1, 2019  | 18.0018     | 18.0018 | 18.0018 | 18.0018 | 18.0018 | 13.2449 | 10.1253 | 8.0240 | 6.4567  | 2.0706  | 0.3351  |
| August 1, 2020  | 18.0018     | 18.0018 | 18.0018 | 17.5618 | 15.5732 | 10.6280 | 8.0530  | 6.4039 | 5.1884  | 1.7284  | 0.2818  |
| August 1, 2021  | 18.0018     | 18.0018 | 16.4429 | 13.8625 | 11.8863 | 7.5353  | 5.6510  | 4.5257 | 3.6986  | 1.2881  | 0.2079  |
| August 1, 2022  | 18.0018     | 15.7306 | 11.8162 | 9.0366  | 7.1112  | 3.8624  | 2.9215  | 2.3793 | 1.9619  | 0.7142  | 0.1092  |
| August 1, 2023  | 18.0018     | 10.4582 | 1.8002  | 0.0000  | 0.0000  | 0.0000  | 0.0000  | 0.0000 | 0.0000  | 0.0000  | 0.0000  |

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The exact stock prices and effective dates may not be set forth in the table above, in which case:

- If the stock price is between two stock prices in the table or the effective date is between two effective dates in the table, the number of additional shares by which the conversion rate will be increased will be determined by a straight-line interpolation between the number of additional shares set forth for the higher and lower stock prices and the earlier and later effective dates, as applicable, based on a 365-day year.
- If the stock price is greater than \$20.00 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.
- If the stock price is less than \$5.05 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

Notwithstanding the foregoing, in no event will the conversion rate per \$1,000 principal amount of the Affiliate Notes exceed 198.0198 shares of common stock, subject to adjustment in the same manner as the conversion rate as set forth under Conversion Rate Adjustments.

Our obligations to increase the conversion rate for the Notes converted in connection with a make-whole fundamental change could be considered a penalty, in which case the enforceability thereof would be subject to general principles of reasonableness and equitable remedies.

**Fundamental Change Permits Holders to Require Us to Repurchase Notes**

If a fundamental change (as defined below in this section) occurs at any time prior to the maturity date, holders will have the right, at their option, to require us to repurchase for cash all of their Notes, or any portion of the principal amount thereof that is equal to \$1,000 or a multiple of \$1,000. The fundamental change repurchase date will be a date specified by us that is not less than 20 or more than 35 calendar days following the date of our fundamental change notice as described below.

The fundamental change repurchase price we are required to pay will be equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date (unless the fundamental change repurchase date falls after a regular record date but on or prior to the interest payment date to which such regular record date relates, in which case we will instead pay the full amount of accrued and unpaid interest to the holder of record on such regular record date, and the fundamental change repurchase price will be equal to 100% of the principal amount of the Notes to be repurchased).

A fundamental change will be deemed to have occurred at the time after the Notes are originally issued if any of the following occurs:

(1) a person or group within the meaning of Section 13(d) of the Exchange Act, other than us, our wholly owned subsidiaries and our and their employee benefit plans, files a

Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect beneficial owner, as defined in

Rule 13d-3 under the Exchange Act, of our common stock representing more than 50% of the voting power of our common stock;

(2) the consummation of (A) any recapitalization, reclassification or change of our common stock (other than changes resulting from a subdivision or combination) as a result of which our common stock would be converted into, or exchanged for, stock, other securities, other property or assets; (B) any share exchange, consolidation or merger of us pursuant to which our common stock will be converted into cash, securities or other property or assets; or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole, to any person other than one of our wholly owned subsidiaries; provided, however, that a transaction described in clause (A) or (B) in which the holders of all classes of our common equity immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of common equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such transaction in substantially the same proportions as such ownership immediately prior to such transaction shall not be a fundamental change pursuant to this clause (2);

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- (3) our stockholders approve any plan or proposal for the liquidation or dissolution of us; or
- (4) our common stock (or other common stock underlying the Notes) ceases to be listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors).

A transaction or transactions described in clauses (1) or (2) above will not constitute a fundamental change, however, if at least 90% of the consideration received or to be received by our common stockholders, excluding cash payments for fractional shares, in connection with such transaction or transactions consists of shares of common stock that are listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors) or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions and as a result of such transaction or transactions the Notes become convertible into such consideration, excluding cash payments for fractional shares (subject to the provisions set forth above under Conversion Rights Settlement upon Conversion ).

If any transaction in which our common stock is replaced by the securities of another entity occurs, following completion of any related make-whole fundamental change period (or, in the case of a transaction that would have been a fundamental change or a make-whole fundamental change but for the immediately preceding paragraph, following the effective date of such transaction), references to us in the definition of fundamental change above shall instead be references to such other entity.

For purposes of the definition of fundamental change above, any transaction that constitutes a fundamental change pursuant to both clause (1) and clause (2) of such definition shall be deemed a fundamental change solely under clause (2) of such definition.

On or before the 20th day after the occurrence of a fundamental change, we will provide to all holders of the Notes and the trustee and paying agent a written notice of the occurrence of the fundamental change and of the resulting repurchase right. Such notice shall state, among other things:

- the events causing a fundamental change;
- the date of the fundamental change;
- the last date on which a holder may exercise the repurchase right;
- the fundamental change repurchase price;

- the fundamental change repurchase date;
- the name and address of the paying agent and the conversion agent, if applicable;
- if applicable, the conversion rate and any adjustments to the conversion rate;
- that the Notes with respect to which a fundamental change repurchase notice has been delivered by a holder may be converted only if the holder withdraws the fundamental change repurchase notice in accordance with the terms of the Indenture; and
- the procedures that holders must follow to require us to repurchase their Notes.

To exercise the fundamental change repurchase right, you must deliver, on or before the business day immediately preceding the fundamental change repurchase date, the Notes to be repurchased, duly endorsed for transfer, together with a written repurchase notice, to the paying agent. Each repurchase notice must state:

- if certificated, the certificate numbers of your Notes to be delivered for repurchase;
- the portion of the principal amount of Notes to be repurchased, which must be \$1,000 or a multiple thereof; and
- that the Notes are to be repurchased by us pursuant to the applicable provisions of the Notes and the Indenture.

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If the Notes are not in certificated form, such repurchase notice must comply with appropriate DTC procedures.

Holders may withdraw any repurchase notice (in whole or in part) by a written notice of withdrawal delivered to the paying agent prior to the close of business on the business day immediately preceding the fundamental change repurchase date. The notice of withdrawal shall state:

- the principal amount of the withdrawn Notes, which must be in minimum denominations of \$1,000 or a multiple in excess thereof;
- if certificated Notes have been issued, the certificate numbers of the withdrawn Notes; and
- the principal amount, if any, which remains subject to the repurchase notice, which must be in minimum denominations of \$1,000 or a multiple in excess thereof.

If the Notes are not in certificated form, such notice of withdrawal must comply with appropriate DTC procedures.

We will be required to repurchase the Notes on the fundamental change repurchase date. Holders who have exercised the repurchase right will receive payment of the fundamental change repurchase price on the later of (i) the fundamental change repurchase date and (ii) the time of book-entry transfer or the delivery of the Notes. If the paying agent holds money sufficient to pay the fundamental change repurchase price of the Notes on the fundamental change repurchase date, then, with respect to the Notes that have been properly surrendered for repurchase and have not been validly withdrawn:

- the Notes will cease to be outstanding and interest will cease to accrue (whether or not book-entry transfer of the Notes is made or whether or not the Notes are delivered to the paying agent); and
- all other rights of the holder of such Notes will terminate (other than the right to receive the fundamental change repurchase price).

In connection with any repurchase offer pursuant to a fundamental change repurchase notice, we will, if required:

- comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable;



- file a Schedule TO or any other required schedule under the Exchange Act; and
- otherwise comply with all federal and state securities laws in connection with any offer by us to repurchase the Notes,

in each case, so as to permit the rights and obligations under this Fundamental Change Permits Holders to Require Us to Repurchase Notes to be exercised in the time and in the manner specified in the Indenture.

No Notes may be repurchased on any date at the option of holders upon a fundamental change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a default by us in the payment of the fundamental change repurchase price with respect to such Notes).

The repurchase rights of the holders could discourage a potential acquirer of us. The fundamental change repurchase feature, however, is not the result of management's knowledge of any specific effort to obtain control of us by any means or part of a plan by management to adopt a series of anti-takeover provisions.

The term fundamental change is limited to specified transactions and may not include other events that might adversely affect our financial condition. In addition, the requirement that we offer to repurchase the Notes upon a fundamental change may not protect holders in the event of a highly leveraged transaction, reorganization, merger or similar transaction involving us.

Furthermore, holders may not be entitled to require us to repurchase their Notes or be entitled to an increase in the conversion rate upon conversion as described under Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change in circumstances involving a significant change in the composition of our board unless such change is in connection with a fundamental change or make-whole fundamental change as described herein.

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The definition of fundamental change includes a phrase relating to the sale, lease or other transfer of all or substantially all of our consolidated assets. There is no precise, established definition of the phrase substantially all under applicable law. Accordingly, the ability of a holder of the Notes to require us to repurchase its Notes as a result of the sale, lease or other transfer of less than all of our assets may be uncertain.

If a fundamental change were to occur, we may not have enough funds to pay the fundamental change repurchase price. Our ability to repurchase the Notes for cash may be limited by restrictions on our ability to obtain funds for such repurchase through dividends from our subsidiaries, the terms of our then existing borrowing arrangements or otherwise. See Risk Factors Risks Related to the Notes We may not have the ability to raise the funds necessary to repurchase the Notes upon a fundamental change, and our future debt may contain limitations on our ability to repurchase the notes. If we fail to repurchase Notes when required following a fundamental change, we will be in default under the Indenture. In addition, our Loan Agreement contains, and we may in the future incur other indebtedness with, similar change in control provisions permitting our holders to accelerate or to require us to repurchase our indebtedness upon the occurrence of similar events or on some specific dates.

**Consolidation, Merger or Sale of Assets**

The Indenture provides that we will not consolidate with or merge with or into, or sell, convey, transfer or lease all or substantially all of our properties and assets to, another person, unless (i) the resulting, surviving or transferee person (if not us) is a corporation organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, and such corporation (if not us) expressly assumes by supplemental indenture all of our obligations under the Notes and the Indenture; and (ii) immediately after giving effect to such transaction, no default or event of default has occurred and is continuing under the Indenture. Upon any such consolidation, merger or sale, conveyance, transfer or lease, the resulting, surviving or transferee person (if not us) shall succeed to, and may exercise every right and power of, ours under the Indenture, and we will be discharged from our obligations under the Notes and the Indenture, except in the case of any such lease.

Although these types of transactions are permitted under the Indenture, certain of the foregoing transactions could constitute a fundamental change permitting each holder to require us to repurchase the Notes of such holder as described above.

**Events of Default**

Each of the following is an event of default with respect to the Notes:

- (1) default in any payment of interest on any Note when due and payable and the default continues for a period of 30 days;
  
- (2) default in the payment of principal of any Note when due and payable at its stated maturity, upon any required repurchase, upon declaration of acceleration or otherwise;

- (3) our failure to comply with our obligation to convert the Notes in accordance with the Indenture upon exercise of a holder's conversion right;
- (4) our failure to give a fundamental change notice as described under Fundamental Change Permits Holders to Require Us to Repurchase Notes or notice of a make-whole fundamental change as described under Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change, in each case when due;
- (5) our failure to give a fundamental change notice as described under Fundamental Change Permits Holders to Require Us to Repurchase Notes or notice of a make-whole fundamental change as described under Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change, in each case when due;
- (6) principal amount of the Notes then outstanding has been received to comply with any of our other agreements contained in the Notes or the Indenture;

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(7) default by us or any of our subsidiaries with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed in excess of \$5.0 million (or its foreign currency equivalent) in the aggregate of us and/or any such subsidiary, whether such indebtedness now exists or shall hereafter be created (i) resulting in such indebtedness becoming or being declared due and payable or (ii) constituting a failure to pay the principal of any such indebtedness when due and payable at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise and, in the cases of clauses (i) and (ii) such acceleration shall not have been rescinded or annulled or such failure to pay or default shall not have been cured or waived, or such indebtedness is not paid or discharged, as the case may be, within 30 days of such acceleration or failure to pay, as applicable;

(8) a final judgment or judgments for the payment of \$5.0 million (or its foreign currency equivalent) or more (excluding any amounts covered by insurance) in the aggregate rendered against us or any of our subsidiaries, which judgment is not discharged, bonded, paid, waived or stayed within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished; or

(9) certain events of bankruptcy, insolvency, or reorganization of us or any of our significant subsidiaries, as defined in Article 1, Rule 1-02 of Regulation S-X.

If an event of default occurs and is continuing, the trustee by notice to us, or the holders of at least 25% in principal amount of the outstanding Notes by notice to us and the trustee, may declare 100% of the principal of and accrued and unpaid interest, if any, on all the Notes to be due and payable. In case of certain events of bankruptcy, insolvency or reorganization involving us, 100% of the principal of and accrued and unpaid interest on the Notes will automatically become due and payable. Upon such a declaration of acceleration, such principal and accrued and unpaid interest, if any, will be due and payable immediately.

Notwithstanding the foregoing, the Indenture will provide that, to the extent we elect, the sole remedy for an event of default under the Indenture relating to our failure to comply with our obligations as set forth under Reports below, will, for the first 270 days after the occurrence of such an event of default, consist exclusively of the right to receive additional interest on the Notes at a rate equal to 0.25% per annum of the principal amount of the Notes outstanding for each day during the first 90 days after the occurrence of such an event of default and 0.50% per annum of the principal amount of the Notes outstanding from the 91st day to, and including, the 270th day following the occurrence of such an event of default during which such event of default is continuing (in addition to any additional interest that may accrue with respect to the Notes as a result of a registration default as described below under the caption No Registration Rights; Additional Interest ).

If we so elect, such additional interest will be payable in the same manner and on the same dates as the stated interest payable on the Notes. On the 271st day after such event of default (if the event of default relating to the reporting obligations is not cured or waived prior to such 271st day), the Notes will be subject to acceleration as provided above. The provisions of the Indenture described in this paragraph will not affect the rights of holders of Notes in the event of the occurrence of any other event of default under the Indenture. In the event we do not elect to pay the additional interest following an event of default in accordance with this paragraph or we elected to make such payment but do not pay the additional interest when due, the Notes will be immediately subject to acceleration as provided above.

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In order to elect to pay the additional interest as the sole remedy during the first 270 days after the occurrence of an event of default relating to the failure to comply with the reporting obligations in accordance with the immediately preceding paragraph, we must notify in writing all holders of the Notes, the trustee and the paying agent of such election prior to the occurrence of such event of default. Upon our failure to timely give such notice, the Notes will be immediately subject to acceleration as provided above.

The holders of a majority in principal amount of the outstanding Notes may waive all past defaults with respect to the Notes (except with respect to nonpayment of principal or interest or with respect to the failure to deliver the consideration due upon conversion) and rescind any such acceleration with respect to the Notes and its consequences if (i) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) all existing events of default, other than the nonpayment of the principal of and interest on the Notes that have become due solely by such declaration of acceleration, have been cured or waived.

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Each holder shall have the right to receive payment or delivery, as the case may be, of:

- the principal (including the fundamental change repurchase price, if applicable) of;
  
- accrued and unpaid interest, if any, on; and
  
- the consideration due upon conversion of,

its Notes, on or after the respective due dates expressed or provided for in the Indenture, or to institute suit for the enforcement of any such payment or delivery, as the case may be, and such right to receive such payment or delivery, as the case may be, on or after such respective dates shall not be impaired or affected without the consent of such holder.

If an event of default occurs and is continuing, the trustee will be under no obligation to exercise any of the rights or powers under the Indenture at the request or direction of any of the holders of the Notes unless such holders have offered to the trustee indemnity or security satisfactory to the trustee against any loss, liability or expense. Except to enforce the right to receive payment of principal or interest when due, or the right to receive payment or delivery of the consideration due upon conversion, no holder may pursue any remedy with respect to the Indenture or the Notes unless:

- (1) such holder has previously given the trustee written notice that an event of default is continuing;
  
- (2) holders of at least 25% in principal amount of the outstanding Notes have requested the trustee to pursue the remedy;
  
- (3) such holders have offered the trustee security or indemnity satisfactory to the trustee against any loss, liability or expense;
  
- (4) the trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and
  
- (5) the holders of a majority in principal amount of the outstanding Notes have not given the trustee a direction that, in the opinion of the trustee, is inconsistent with such request within such 60-day period.

Subject to certain restrictions, the holders of a majority in principal amount of the outstanding Notes are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or of exercising any trust or power conferred on the trustee under the Indenture.

The Indenture provides that in the event an event of default has occurred and is continuing, the trustee will be required in the exercise of its powers to use the degree of care that a prudent person would use in the conduct of its own affairs. The trustee, however, may refuse to follow any direction that conflicts with law or the Indenture or that the trustee determines is unduly prejudicial to the rights of any other holder or that would involve the trustee in personal liability. Prior to taking any action under the Indenture, the trustee will be entitled to indemnification or security satisfactory to it against any loss, liability or expense caused by taking or not taking such action.

The Indenture provides that if a default occurs and is continuing and is actually known to the trustee, the trustee must deliver to each holder notice of the default within 90 days after it receives notice thereof. Except in the case of a default in the payment of principal of or interest on any Note or a default in the payment or delivery of the consideration due upon conversion, the trustee may withhold notice if and so long as it in good faith determines that withholding notice is in the interests of the holders. In addition, we are required to deliver to the trustee, within 120 days after the end of each fiscal year, a certificate indicating whether the signers thereof know of any default that occurred during the previous year under the Indenture. We are also required to deliver to the trustee, within 30 days after the occurrence thereof, written notice of any events which would constitute certain defaults under the Indenture, their status and what action we are taking or proposing to take in respect thereof.

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Payments of the fundamental change repurchase price, principal and interest that are not made when due will accrue interest per annum at the then-applicable interest rate from the required payment date.

**Modification and Amendment**

Subject to certain exceptions, the Indenture or the Notes may be amended with the consent of the holders of at least a majority in principal amount of the Notes then outstanding (including without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, Notes) and, subject to certain exceptions, any past default or compliance with any provisions may be waived with the consent of the holders of a majority in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, Notes). However, without the consent of each holder of an outstanding Note affected, no amendment may, among other things:

- (1) reduce the amount of Notes whose holders must consent to an amendment;
- (2) reduce the rate of or extend the stated time for payment of interest on any Note;
- (3) reduce the principal of or extend the stated maturity of any Note;
- (4) make any change that adversely affects the conversion rights of any Note;
- (5) reduce the fundamental change repurchase price of any Note or amend or modify in any manner adverse to the holders of the Notes our obligation to make such payments, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;
- (6) make any note payable in money or at a place of payment other than that stated in the Note;
- (7) change the ranking of the Notes;
- (8) impair the right of any holder to receive payment of principal and interest on such holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such holder's Notes; or



- (9) make any change in the amendment provisions that require each holder's consent or in the waiver provisions.

Without the consent of any holder, we and the trustee may amend the Indenture to:

- (1) cure any ambiguity, omission, defect or inconsistency that does not adversely affect holders of the Notes;
- (2) provide for the assumption by a successor corporation of our obligations under the Indenture;
- (3) add guarantees with respect to the Notes;
- (4) secure the Notes;
- (5) add to our covenants or events of default for the benefit of the holders or surrender any right or power conferred upon us under the Indenture;
- (6) make any other change that does not adversely affect the rights of any holder (for the avoidance of doubt, any amendment to conform the terms of the Indenture or the Notes to the description contained in the offering memorandum for the Primary Notes Offering, along with any pricing term sheet with respect thereto);
- (7) increase the conversion rate as provided in the Indenture;

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- (8) provide for the acceptance of appointment by a successor trustee or facilitate the administration of the trusts under the Indenture by more than one trustee;
  
- (9) provide for the conversion of Notes in accordance with the terms of the Indenture;
  
- (10) in connection with any transaction described under Conversion Rights Recapitalizations, Reclassifications and Changes of Our Common Stock above, provide that the Notes are convertible into reference property, subject to the provisions described under Conversion Rights Settlement upon Conversion above, and make certain related changes to the terms of the Notes to the extent expressly required by the Indenture;
  
- (11) provide for the issuance of additional Notes in accordance with the terms of the Indenture, to the extent that we deem such amendment necessary or advisable in connection with such issuance; *provided* that that no such amendment or supplement may impair the rights or interests of any holder of the outstanding Notes;
  
- (12) comply with any requirement of the SEC in connection with the qualification of the Indenture under the Trust Indenture Act; or
  
- (13) conform the provisions of the Indenture to any provision of the Description of Notes section in the offering memorandum and pricing term sheet for the Primary Notes Offering.

Holders do not need to approve the particular form of any proposed amendment. It will be sufficient if such holders approve the substance of the proposed amendment. After an amendment under the Indenture becomes effective, we are required to deliver to the holders a notice briefly describing such amendment. However, the failure to give such notice to all the holders, or any defect in the notice, will not impair or affect the validity of the amendment.

**Relationship to Primary Offering; Fungibility of Affiliate Notes**

The Affiliate Notes constitute part of the same series as the Primary Offering Notes offered in the Primary Offering, including with respect to voting rights under the Indenture governing the Notes (except as forth below under Voting ). The Affiliate Notes were issued in certificated form, were not initially fungible with the Primary Offering Notes and are subject to different transfer restrictions than the Primary Offering Notes. In particular, the Affiliate Notes will not become freely transferable until 12 months following their sale by an affiliate to a non-affiliate of ours unless sold in a transaction registered under the Securities Act or pursuant to Rule 144 of the Securities Act.

**Voting**

In determining whether the holders of the requisite aggregate principal amount of Notes have concurred in any direction, consent, waiver or other action under the Indenture, Notes that are owned by us, by any of our subsidiaries or by any person or entity directly or indirectly controlling or controlled by or under direct or indirect common control with us or any of our subsidiaries and, as long as they are held by an affiliate of ours, the Affiliate Notes, shall be disregarded and deemed not to be outstanding for the purpose of any such determination, except that for the purposes of determining whether the trustee shall be protected in conclusively relying on any such direction, waiver or consent, only Notes (and Affiliate Notes) that a responsible officer of the trustee actually knows are so owned shall be disregarded.

Notes (and Affiliate Notes) so owned that have been pledged in good faith may be regarded as outstanding for such purposes if the pledgee shall establish its right to so act with respect to such Notes and that the pledgee is not us, one of our subsidiaries or a person or entity directly or indirectly controlling or controlled by or under direct or indirect common control with us or on of our subsidiaries.

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**Discharge**

We may satisfy and discharge our obligations under the Indenture by delivering to the securities registrar for cancellation all outstanding Notes or by depositing with the trustee or delivering to the holders, as applicable, after the Notes have become due and payable, whether at maturity, at any fundamental change repurchase date, upon conversion or otherwise, cash and/or (in the case of conversion) shares of common stock and, if applicable, sufficient to pay all of the outstanding Notes and paying all other sums payable under the Indenture by us. Such discharge is subject to terms contained in the Indenture.

**Calculations in Respect of the Notes**

Except as otherwise provided above, we will be responsible for making all calculations called for under the Notes. These calculations include, but are not limited to, determinations of the stock price, the last reported sale prices of our common stock, accrued interest payable on the Notes and the conversion rate of the Notes. We will make all these calculations in good faith and, absent manifest error, our calculations will be final and binding on holders of Notes. We will provide a schedule of our calculations to each of the trustee, the paying agent and the conversion agent, and each of the trustee, the paying agent and the conversion agent is entitled to rely conclusively upon the accuracy of our calculations without independent verification. The trustee will forward our calculations to any holder of Notes upon the written request of that holder.

**Reports**

The Indenture provides that any documents or reports that we are required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act (excluding any such information, documents or reports, or portions thereof, subject to confidential treatment and any correspondence with the SEC) must be filed by us with the trustee within 15 days after the same are required to be filed with the SEC (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act). Documents filed by us with the SEC via the EDGAR system will be deemed to be filed with the trustee as of the time such documents are filed via EDGAR, it being understood that the trustee shall not be responsible for determining whether such filings have been made. Delivery of reports, information and documents to the trustee under the Indenture is for informational purposes only and the information and the trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein, or determinable from information contained therein including our compliance with any of its covenants thereunder (as to which the trustee is entitled to rely exclusively on an officer's certificate).

**Trustee**

U.S. Bank National Association is the initial trustee, security registrar, paying agent and conversion agent. U.S. Bank National Association, in each of its capacities, including without limitation as trustee, security registrar, paying agent and conversion agent, assumes no responsibility for the accuracy or completeness of the information concerning us or our affiliates or any other party contained in this document or the related documents or for any failure by us or any other party to disclose events that may have occurred and may affect the significance or accuracy of such information.

**Governing Law**

The Indenture provides that it and the Notes, and any claim, controversy or dispute arising under or related to the Indenture or the Notes, will be governed by and construed in accordance with the laws of the State of New York.

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**CERTAIN U.S. FEDERAL INCOME TAX CONSIDERATIONS**

The following is a summary of certain material U.S. federal income tax considerations of the purchase, ownership and disposition of the Notes, and the ownership and disposition of shares of common stock into which the Notes may be converted. The summary is based on the U.S. Internal Revenue Code of 1986, as amended (the Code), applicable regulations of the U.S. Department of the Treasury promulgated thereunder (the Treasury Regulations), U.S. Internal Revenue Service (IRS) rulings and decisions and judicial decisions thereon and existing interpretations thereof, all as in effect on the date of this prospectus. No assurances can be given that any future legislative, administrative or judicial developments will not significantly modify the statements made in this summary. All of the laws and authorities discussed herein are subject to change at any time, possibly with retroactive effect.

We have not sought any ruling from the IRS in respect of the statements made and the conclusions reached in this discussion, and there can be no assurance that the IRS will agree with such statements and conclusions, or that the IRS will not challenge any of the positions taken by us and that such challenge, if any, will not be sustained. A different treatment from that described below could adversely affect the tax consequences of the ownership and disposition of the Notes as set forth in this summary.

This summary applies only to beneficial owners that hold the Notes or shares of common stock as capital assets for U.S. federal income tax purposes (generally, property held for investment) and that purchased the Notes on original issuance at their issue price (generally, the first price at which a substantial portion of the Notes is sold to persons other than bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or whole salers). This summary does not purport to deal with all aspects of U.S. federal income taxation that may be relevant to a particular holder in light of such holder's circumstances (including the alternative minimum tax). In particular, this summary does not address all tax considerations applicable to special classes of holders, such as dealers in securities or currencies, banks, tax-exempt organizations, insurance companies, traders in securities that elect to mark to market their securities holdings, United States expatriates, persons that hold Notes as part of a hedging transaction or a position in a straddle or conversion transaction, persons that purchase or sell Notes as part of a wash sale for U.S. federal income tax purposes, persons subject to special tax accounting rules under Section 451(b) of the Code, partnerships or other pass-through entities and investors therein, real estate investment trusts, regulated investment companies and U.S. Holders (as defined below) whose functional currency is not the U.S. dollar. Furthermore, this summary does not address estate and gift tax consequences or any tax consequences arising out of the laws of any U.S. state, U.S. local, or non-U.S. jurisdiction.

In December 2017, the United States enacted U.S. federal income tax reform, which significantly changed the U.S. federal income tax system. Although this summary takes into account this new U.S. federal income tax law, its provisions are complex and there is limited administrative guidance about its application. You should consult your own tax advisor regarding the potential impact of this new U.S. federal income tax law on the U.S. federal income tax consequences to you in light of your particular circumstances.

If a partnership (including any entity treated as a partnership for U.S. federal income tax purposes) is a beneficial owner of a Note or share of common stock, the U.S. federal income tax treatment of a partner in that partnership generally will depend on the status of the partner and the activities of the partnership. If you are a partner of a partnership holding Notes or shares of common stock, you should consult your own tax advisors regarding the U.S. federal income tax consequences to you.



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Under the terms of the Notes, we may be obligated in certain circumstances to pay amounts in excess of stated interest or principal on such Notes if we fail to comply with certain reporting and information delivery obligations as described under Description of Notes Events of Default. These potential payments may implicate the provisions of the Treasury Regulations relating to contingent payment debt instruments ( CPDIs ). Under these Treasury Regulations, however, for purposes of determining whether a debt instrument is a CPDI, remote or incidental contingencies (determined as of the date the debt instrument is issued) are ignored. We intend to take the position that the foregoing potential obligation to pay certain additional amounts should not cause the Notes to be treated as CPDIs for U.S. federal income tax purposes. Our determination generally will be binding on you, unless you timely and explicitly disclose a contrary position in the manner required by the applicable Treasury Regulations. Our position, however, is not binding on the IRS. If the IRS successfully challenges our position, and the Notes are treated as CPDIs, the timing and amount of income included and the character of the income recognized with respect to the Notes may be materially and adversely different from the consequences discussed herein. The remainder of this discussion assumes that the Notes are not properly treated as CPDIs. You should consult your own tax advisor regarding the possible application of the CPDI rules to the Notes.

**Prospective purchasers of the Notes should consult their own tax advisors concerning the U.S. federal income tax consequences of the purchase, ownership and disposition of the Notes or the shares of our common stock into which the Notes are convertible in light of their particular circumstances, as well as the effect of any relevant U.S. state, U.S. local, non-U.S. or other tax laws.**

**U.S. Holders**

The following discussion applies to you if you are a U.S. Holder. As used herein, the term U.S. Holder means a beneficial owner of the Notes or shares of common stock received upon conversion of the Notes who or that is, for U.S. federal income tax purposes, any of the following:

- an individual who is a citizen or resident of the United States;
- a corporation (or other entity treated as a corporation) that is created or organized under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust if it (i) is subject to the primary supervision of a court within the United States and one or more U.S. persons (as defined in the Code and Treasury Regulations) have the authority to control all substantial decisions of the trust or (ii) was in existence on August 20, 1996 and has a valid election in effect under applicable Treasury Regulations to be treated as a domestic trust.

***Interest on the Notes***



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Payments or accruals of stated interest on a Note generally will be taxable to you as ordinary income from sources within the United States at the time they are received or accrued, depending on your regular method of accounting for U.S. federal income tax purposes.

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*Disposition of the Notes*

Except as provided below under *Conversion of Notes*, you generally will recognize gain or loss on the sale, exchange, retirement or other taxable disposition of a Note equal to the difference between the amount realized (not including any amount equal to any accrued but unpaid interest, which will be taxed as ordinary income to the extent not previously included in income) on the sale, exchange, retirement or other taxable disposition and your adjusted tax basis in the Note. Your amount realized is the sum of cash plus the fair market value of any property received upon the sale, exchange, retirement or other taxable disposition of a Note. Your adjusted tax basis in a Note generally will equal the amount of your initial investment in the Note.

Gain or loss on the sale, exchange, retirement or other taxable disposition of a Note generally will be capital, and will be long-term capital gain or loss if the Notes was held for more than one year and will be short-term capital gain or loss if the Notes was held for one year or less. Long-term capital gains of non-corporate U.S. Holders (including individuals) are taxed at lower rates than items of ordinary income. The deductibility of capital losses may be subject to limitations.

*Conversion of Notes*

If a U.S. Holder presents Notes for conversion and receives solely common stock (other than cash in lieu of a fractional share) in exchange for the Notes upon conversion, the U.S. Holder generally will not recognize gain or loss upon the conversion of the Notes into common stock except to the extent of (1) cash received in lieu of a fractional share and (2) amounts received with respect to accrued interest (which will be treated as described above under *Interest on the Notes*), subject to the discussion under *Constructive Distributions* below regarding the possibility that an adjustment to the conversion rate of a Note converted in connection with a fundamental change (as defined above under *Description of Notes Conversion Rights Increase in Conversion Rate upon Conversion upon a Make-Whole Fundamental Change*) may be treated as a taxable stock dividend. The adjusted tax basis of shares of common stock received upon a conversion (including any fractional share deemed to be received by the U.S. Holder but excluding shares attributable to accrued interest, the adjusted tax basis of which will equal their fair market value) will equal the adjusted tax basis of the Notes that were converted. The U.S. Holder's holding period for the shares of common stock will include the period during which the U.S. Holder held the Notes, except that the holding period of any shares received with respect to accrued interest will commence on the day after the date of receipt.

Cash received in lieu of a fractional share of our common stock upon a conversion of Notes should be treated as a payment in exchange for the fractional share of our common stock. Accordingly, the receipt of cash in lieu of a fractional share of our common stock generally should result in capital gain or loss, if any, measured by the difference between the cash received for the fractional share of our common stock and a U.S. Holder's adjusted tax basis allocable to such fractional share of our common stock.

A U.S. Holder that converts a Note between a record date for an interest payment and the next interest payment date and consequently receives a payment of cash interest, as described in *Description of Notes Conversion Rights*, should consult its own tax advisor concerning the appropriate treatment of such payments.

As described in *Description of Notes Conversion Rights*, our delivery of shares of common stock (together with cash paid in lieu of a fractional share) generally will be deemed to satisfy our obligation with respect to accrued and unpaid interest on the Notes.



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***Constructive Distributions***

The conversion rate of the Notes will be adjusted in certain circumstances. Adjustments (or failures to make adjustments) that have the effect of increasing a U.S. Holder's proportionate interest in our assets or earnings and profits may, in some circumstances, result in a deemed distribution to a U.S. Holder for U.S. federal income tax purposes. Adjustments to the conversion rate made pursuant to a bona fide reasonable adjustment formula that has the effect of preventing the dilution of the interest of the holders of the Notes, however, generally will not be considered to result in a deemed distribution to a U.S. Holder. Certain of the possible conversion rate adjustments provided in the Notes (including, without limitation, adjustments in respect of taxable dividends to holders of our common stock) will not qualify as being pursuant to a bona fide reasonable adjustment formula. If such adjustments are made, a U.S. Holder will be deemed to have received a distribution even though the U.S. Holder has not received any cash or property as a result of such adjustments. In addition, an adjustment to the conversion rate in connection with a make-whole fundamental change may be treated as a deemed distribution. Any deemed distributions will be taxable as a dividend, return of capital, or capital gain as described in *Distributions on the Common Stock* below. However, it is not clear whether a constructive dividend deemed paid to a non-corporate U.S. Holder would be eligible for the preferential rates of U.S. federal income tax applicable in respect of certain dividends received. It is also unclear whether corporate U.S. Holders would be entitled to claim the dividends received deduction with respect to any such constructive dividends. Because a constructive dividend deemed received by a U.S. Holder would not give rise to any cash from which any applicable withholding could be satisfied, if backup withholding is paid on behalf of a U.S. Holder (because such U.S. Holder failed to establish an exemption from backup withholding), such backup withholding may be set off against payments of cash and common stock payable on the Notes (or, in certain circumstances, against any payments on the common stock).

The IRS has proposed regulations addressing the amount and timing of deemed distributions, obligations of withholding agents and filing and notice obligations of issuers effective for deemed distributions occurring on or after the date the regulations are adopted in final form. If adopted as proposed, such IRS regulations generally would provide that (1) the amount of a deemed distribution is the excess of the fair market value of the right to acquire stock immediately after the conversion adjustment over the fair market value of the right to acquire stock without the adjustment, (2) the deemed distribution occurs at the earlier of the date the adjustment occurs under the terms of the Note and the date of the actual distribution of cash or property that results in the deemed distribution, and (3) we are required to report the amount of any deemed distributions on our website or to the IRS and to all holders of Notes. If made final, such IRS regulations will be effective for deemed distributions occurring on or after the date of adoption, but holders of Notes and withholding agents may rely on them prior to that date under certain circumstances.

***Distributions on the Common Stock***

Distributions, if any, made on our common stock to a U.S. Holder generally will be included in a U.S. Holder's income as ordinary dividend income to the extent of our current or accumulated earnings and profits. However, with respect to dividends received by individuals, such dividends generally are taxed at the lower applicable long-term capital gains rates, provided certain holding period requirements are satisfied. Distributions in excess of our current and accumulated earnings and profits will be treated as a return of capital to the extent of a U.S. Holder's adjusted tax basis in the common stock and thereafter as capital gain from the sale or exchange of such common stock. Dividends received by a corporation may be eligible for a dividends received deduction, subject to applicable limitations.

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***Disposition of Common Stock***

Upon the sale or other taxable disposition of our common stock, a U.S. Holder generally will recognize capital gain or loss equal to the difference between (1) the amount of cash and the fair market value of all other property received upon such disposition, and (2) the U.S. Holder's adjusted tax basis in the common stock. Such capital gain or loss will be long-term capital gain or loss if a U.S. Holder's holding period in the common stock is more than one year at the time of the taxable disposition. Long-term capital gains recognized by certain non-corporate U.S. Holders (including individuals) generally will be subject to reduced rates of U.S. federal income tax. A U.S. Holder's ability to deduct capital losses may be limited.

***Medicare Tax***

If you are an individual or estate, or a trust that does not fall into a special class of trusts that is exempt from such tax, you are subject to a 3.8% tax on the lesser of (i) your net investment income for the relevant taxable year (or, in the case of an estate or trust, the undistributed net investment income) and (ii) the excess of your modified adjusted gross income for the taxable year over a certain threshold (which in the case of individuals is between US\$125,000 and US\$250,000, depending on the individual's circumstances). Your net investment income generally includes your interest income attributable to the Notes and your net gains from the disposition of the Notes or shares of common stock received upon conversion of the Notes, unless such interest income or net gains are derived in the ordinary course of the conduct of a trade or business (other than a trade or business that consists of certain passive or trading activities). If you are a U.S. Holder that is an individual, estate or trust, we urge you to consult your tax advisor regarding the applicability of the Medicare tax to your specific circumstances.

***Non-U.S. Holders***

The following discussion applies to you if you are a Non-U.S. Holder. As used herein, the term "Non-U.S. Holder" means a beneficial owner of the Notes or shares of common stock received upon conversion of the Notes who or that is an individual, corporation (or other entity treated as a corporation), estate or trust and is not a U.S. Holder as defined above.

***Interest on the Notes***

Subject to the discussion of backup withholding and FATCA below, if you are a Non-U.S. Holder, you generally will not be subject to U.S. federal income tax, including withholding tax, on payments of interest with respect to the Notes provided that (1) the payment of interest is not effectively connected with the conduct by you of a trade or business within the United States, (2) (A) you do not actually or constructively own 10% or more of the total combined voting power of all classes of our stock entitled to vote, (B) you are not a controlled foreign corporation that is related directly or constructively to us through stock ownership and (C) you are not a bank whose receipt of interest on the Notes is described in Section 881(c)(3)(A) of the Code, and (3) you have furnished an IRS Form W-8BEN or W-8BEN-E or an acceptable substitute or successor form upon which you certify, under penalties of perjury, that you are not a U.S. person, or you hold the Notes through certain non-U.S. intermediaries or certain non-U.S. partnerships, and you and the non-U.S. intermediary or non-U.S. partnership satisfy the certification requirements of applicable Treasury Regulations.



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If interest on the Notes is not effectively connected with the conduct by you of a trade or business within the United States or, if an applicable income tax treaty requires, is not attributable to a permanent establishment or fixed base in the United States, but you cannot satisfy the requirements outlined above, interest on the Notes generally will be subject to U.S. federal withholding tax (currently imposed at a 30% rate, or a lower rate if an applicable income tax treaty so provides and you satisfy the relevant certification requirements). We will not pay any additional amounts to you in respect of any amounts so withheld.

If interest on the Notes is effectively connected with the conduct by you of a trade or business within the United States and, if an applicable income tax treaty requires, such interest is attributable to a permanent establishment or fixed base in the United States, you generally will be subject to U.S. federal income tax on such interest in the same manner as if you were a U.S. Holder and, if you are a non-U.S. corporation, you may also be subject to the U.S. branch profits tax (currently imposed at a rate of 30% or a lower rate if an applicable income tax treaty so provides). Any such interest will not also be subject to U.S. federal withholding tax, however, if you deliver a properly executed IRS Form W-8ECI or acceptable substitute or successor form claiming an exemption from U.S. federal withholding tax.

***Dividends and Constructive Distributions***

Any dividends paid to a Non-U.S. Holder with respect to the shares of common stock (and any deemed dividends resulting from certain adjustments, or failure to make adjustments, to the conversion rate, see U.S. Holders Constructive Distributions above) generally will be subject to U.S. federal withholding tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. However, dividends that are effectively connected with a Non-U.S. Holder's conduct of a trade or business within the United States and, if an applicable income tax treaty requires, are attributable to a U.S. permanent establishment or fixed base in the United States, are not subject to the withholding tax, but instead are subject to U.S. federal income tax on a net income basis at applicable U.S. federal income tax rates. Certain certification requirements and disclosure requirements must be complied with in order for effectively connected income to be exempt from withholding. Any such effectively connected income received by a non-U.S. corporation may, under certain circumstances, be subject to the U.S. branch profits tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty.

Because a constructive dividend deemed received by a Non-U.S. Holder would not give rise to any cash from which any applicable withholding tax could be satisfied, if withholding taxes are paid on behalf of a Non-U.S. Holder, such withholding taxes may be set off against payments of cash and common stock payable on the Notes (or, in certain circumstances, against any payments on the common stock).

A Non-U.S. Holder who wishes to claim the benefit of an applicable income tax treaty rate is required to satisfy applicable certification and other requirements. If a Non-U.S. Holder is eligible for a reduced rate of U.S. federal withholding tax pursuant to an income tax treaty, it may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

***Disposition of Notes or Shares of Common Stock***

Subject to the discussion of backup withholding and FATCA below, any gain recognized by a Non-U.S. Holder on the sale, exchange, certain repurchases or other taxable disposition of a Note or common stock generally will not be subject to U.S. federal income tax unless:

- such gain is effectively connected with a Non-U.S. Holder's conduct of a trade or business in the United States (and, if an applicable income tax treaty requires, such gain is attributable to a U.S. permanent establishment or fixed base in the United States);



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- the Non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of that disposition, and certain other conditions are met; or
- we are or have been a United States real property holding corporation (USRPHC) for U.S. federal income tax purposes during the shorter of the Non-U.S. Holder's holding period or the five-year period ending on the date of disposition of the Notes or common stock, as the case may be, and certain other conditions are met.

If a Non-U.S. Holder's gain is described under the first bullet or the third bullet above, such holder generally will be subject to tax at regular U.S. federal income tax rates on the net gain recognized, generally in the same manner as if such holder were a U.S. Holder and, if a non-U.S. corporation, may also be subject to the U.S. branch profits tax as described above. If a Non-U.S. Holder is described under the second bullet above, such holder generally will be subject to a 30% U.S. federal income tax (or a lower rate if an applicable income tax treaty so provides) on the gain recognized, which gain may be offset by certain U.S.-source capital losses (notwithstanding the fact that such Non-U.S. Holder is not considered a U.S. resident for U.S. federal income tax purposes). Any amounts (including common stock) which a Non-U.S. Holder receives on a sale, exchange, repurchase, conversion or other taxable disposition of a Note which are attributable to accrued interest will be taxable as interest and subject to the rules describe above under Interest on the Notes.

In general, we would be a USRPHC if the fair market value of our U.S. real property interests equals or exceeds 50% of the sum of the fair market value of our worldwide real property interests plus our other assets used or held for use in a trade or business. We believe that we are not, and we do not anticipate becoming, a USRPHC for U.S. federal income tax purposes.

***Foreign Account Tax Compliance Act***

Sections 1471 through 1474 of the Code (commonly known as the Foreign Account Tax Compliance Act, or FATCA) impose, under certain circumstances, a withholding tax of 30% on payments of U.S. source interest on debt securities, including the Notes, and dividends paid on stock in a U.S. corporation, made to certain non-U.S. entities (whether such non-U.S. entities are beneficial owners or intermediaries) unless various information reporting requirements are satisfied. In addition, the IRS has advised that future guidance may provide that certain other payments made to or by foreign financial institutions may be subject to a 30% U.S. federal withholding tax. Among other requirements, foreign financial institutions generally must provide information about their U.S. account holders and non-financial foreign entities must provide information about their substantial U.S. owners unless an applicable exemption applies. Foreign financial institutions located in jurisdictions that have an intergovernmental agreement with the United States with respect to FATCA may be subject to different rules. In addition, under certain circumstances, a Non-U.S. Holder might be eligible for refunds or credits of any taxes imposed pursuant to FATCA. We will not pay any additional amounts to you in respect of any amounts so withheld.

Prospective purchasers should consult their own tax advisors regarding the application of FATCA to the purchase, ownership, and disposition of the Notes or the shares of our common stock into which the Notes are convertible.



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**Backup Withholding and Information Reporting**

If you are a U.S. Holder (other than certain exempt recipients), information reporting requirements generally will apply to payments of principal and interest on the Notes and dividends on the shares of common stock, and to the proceeds from a sale, exchange, retirement or other taxable disposition of the Notes or shares of common stock. Backup withholding (currently at a rate of 24%) generally will apply to such payments if you are a U.S. Holder (other than an exempt recipient) that (i) fails to provide an accurate taxpayer identification number or (ii) fails to certify that you are not subject to backup withholding or is notified by the IRS that you have failed to report all interest and dividends required to be shown on your U.S. federal income tax returns. We will not pay any additional amounts to you in respect of any amounts so withheld.

Generally, the amount of interest and dividends paid to Non-U.S. Holders and the amount of tax, if any, withheld with respect to those payments must be reported annually to the IRS and to the Non-U.S. Holders. Copies of the information returns reporting such interest, dividends and withholding may also be made available to the tax authorities in the country in which the Non-U.S. Holder resides under the provisions of an applicable income tax treaty. In general, a Non-U.S. Holder will not be subject to backup withholding with respect to payments of interest or dividends that we make, provided the IRS Form W-8BEN or W-8BEN-E or substitute or successor form described above under Non-U.S. Holders Interest on the Notes has been received or the Non-U.S. Holder otherwise establishes an exemption, and the applicable withholding agent does not have actual knowledge or reason to know that the holder is a U.S. person that is not an exempt recipient. The payment of proceeds of a sale of Notes or shares of common stock effected at the U.S. office of a broker generally will be subject to information reporting and backup withholding unless the Non-U.S. Holder provides the form referred to above or otherwise establishes an exemption, and the broker does not have actual knowledge or reason to know that the holder is a U.S. person that is not an exempt recipient. In addition, the information reporting rules may apply to payments of proceeds of such a sale effected at a non-U.S. office of a broker that is a U.S. Controlled Person, unless the broker has documentary evidence that the holder is not a U.S. person (and has no actual knowledge or reason to know to the contrary) or the holder otherwise establishes an exemption.

A U.S. Controlled Person is:

- a U.S. person;
- a controlled foreign corporation for U.S. federal income tax purposes;
- a non-U.S. person 50% or more of whose gross income is derived for U.S. federal income tax purposes from a U.S. trade or business for a specified three-year period; or
- a non-U.S. partnership in which U.S. persons hold, at any time during its tax year, more than 50% of the income or capital interests or which is engaged in a U.S. trade or business.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from a payment to you as to a Note or share of common stock generally will be allowed as a refund or a credit against your U.S. federal income tax liability as long as you provide the

required information to the IRS in a timely manner.

Table of Contents**SELLING SECURITYHOLDER**

We originally issued the Affiliate Notes to the Selling Securityholder in a private placement completed in August 2018. In connection with that private placement, we agreed to file the registration statement of which this prospectus is a part to cover the resale of the Affiliate Notes and the shares of our common stock issuable upon conversion of the Affiliate Notes. We have agreed to keep this registration statement effective until August 2020 or, if earlier, the date on which the Affiliate Notes and related shares of our common stock have been sold or may be sold without restriction or limitation under Rule 144 of the Securities Act.

The Selling Securityholder may sell some, all or none of its Affiliate Notes and shares of common stock into which the Affiliate Notes are converted. The Affiliate Notes and underlying shares of common stock covered hereby may be offered from time to time by the Selling Securityholder.

The following table sets forth for the Selling Securityholder, the number and percentage of our common stock beneficially owned by the Selling Securityholder as of March 22, 2019, the principal amount of Affiliate Notes and underlying shares of our common stock that may be offered under this prospectus, and the number and percentage of our common stock beneficially owned by the Selling Securityholder assuming all of the securities covered by this prospectus are sold. Beneficial ownership is determined in accordance with the rules of the SEC and includes voting or investment power with respect to our common stock. Generally, a person beneficially owns shares of our common stock if the person has or shares with others the right to vote those shares or to dispose of them, or if the person has the right to acquire voting or disposition rights within 60 days.

All information contained in the table below and the footnotes thereto is based upon information provided to us by the Selling Securityholder. The information in the table below and the footnotes thereto regarding shares of common stock to be beneficially owned after the offering assumes the sale of all securities being offered by the Selling Securityholder under this prospectus. The percentage of shares owned after the offering is based on 110,316,799 shares of common stock outstanding as of December 3, 2018. Unless otherwise indicated in the footnotes to this table, we believe that the Selling Securityholder named in this table has sole voting and investment power with respect to the shares of common stock indicated as beneficially owned.

| Name   | Principal Amount of Affiliate Notes that May be Sold | Number of Shares of Common Stock that May be Sold (1) | After Offering  |   |
|--|--|---|---|---|
|  |  |   | Principal Amount of Affiliate Notes and Shares of Common Stock Issuable Under Affiliate Notes | Percentage of Common Stock Beneficially Owned (2) |
| Rodgers Massey Revocable Living Trust dtd 4/4/11 | \$ 5,000,000   | 990,099   |   | 4.82%   |

(1) Represents the shares of common stock issuable upon conversion of the Affiliate Notes at an initial conversion rate of 180.0180 shares of common stock per \$1,000 principal amount of the Affiliate Notes.

(2) The indicated ownership is based solely on a Schedule 13G filed with the SEC by the reporting person on January 19, 2017, reporting beneficial ownership as of January 19, 2017 and consists of common stock held of record by Rodgers Massey Revocable Living Trust dtd 4/4/11, for which Mr. Rodgers and his spouse, Valeta Massey, serve

as trustees and share joint voting and dispositive power. The Schedule 13G filed by the reporting person provides information only as of January 9, 2017, and, consequently, the beneficial ownership of the above-mentioned reporting person may have changed between January 9, 2017 and March 22, 2019. The address for the reporting persons is: 575 Eastview Way, Woodside, CA 94062.

**Relationships with the Selling Securityholder**

The Selling Securityholder is a member of our Board of Directors and also serves as a member of the Compensation Committee and the Nominating and Corporate Governance Committee of our Board of Directors.

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**PLAN OF DISTRIBUTION**

We are registering the Affiliate Notes issued to the Selling Securityholder, as well as the shares of common stock into which the Affiliate Notes may be converted (collectively, the Securities), to permit the resale of the Securities by the Selling Securityholder from time to time from after the date of this prospectus. We will not receive any of the proceeds from the sale by the Selling Securityholder of any of the Securities. We will bear all fees and expenses incident to our obligation to register the Securities.

The Selling Securityholder may use any one or more of the following methods when selling the Securities:

- through broker-dealers or agents who may receive compensation in the form of discounts, concessions or commissions from the Selling Securityholder or the purchasers of the Securities;
- privately negotiated transactions; or
- any other method permitted pursuant to applicable law.

The Selling Securityholder may also sell the Securities under Rule 144 under the Securities Act (if available and subject to the restrictions thereof) rather than under this prospectus.

Broker-dealers engaged by the Selling Securityholder may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Securityholder (or, if any broker-dealer acts as agent for the purchaser of shares, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with FINRA Rule 2440; and in the case of a principal transaction a markup or markdown in compliance with FINRA IM-2440-1.

In connection with the sale of the Securities, the Selling Securityholder may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the shares of common stock in the course of hedging the positions they assume. The Selling Securityholder may also sell the shares of common stock issued upon the conversion of the Affiliate Notes short and deliver these securities to close out its short positions or to return borrowed shares in connection with such short sales, or loan or pledge the shares of common stock to broker-dealers that in turn may sell these securities. The Selling Securityholder may also enter into option or other transactions with broker-dealers or other financial institutions or create one or more derivative securities which require the delivery to such broker-dealer or other financial institution of the Securities offered by this prospectus, which Securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction). The foregoing provisions of this paragraph are subject, in each instance, to any further restrictions as may apply to the Selling Securityholder under any agreement between the Selling Securityholder and us.

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The Selling Securityholder and any broker-dealers or agents that are involved in selling the Securities may be deemed to be underwriters within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such Selling Securityholder, broker-dealers or agents and any profit on the resale of the Securities purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. If the Selling Securityholder is deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act, it will be subject to the prospectus delivery requirements of the Securities Act and may be subject to certain statutory liabilities of, including but not limited to, Sections 11, 12 and 17 of the Securities Act and Rule 10b-5 under the Exchange Act. The Selling Securityholder has informed us that he is not a registered broker-dealer or an affiliate of a registered broker-dealer. In no event shall any broker-dealer receive fees, commissions and markups which, in the aggregate, would exceed 8%.

We are required to pay certain fees and expenses incurred by us incident to the registration of the shares. We have agreed to indemnify the Selling Securityholder against certain losses, claims, damages and liabilities, including liabilities under the Securities Act, and the Selling Securityholder may be entitled to contribution. We may be indemnified by the Selling Securityholder against certain losses, claims, damages and liabilities, including liabilities under the Securities Act that may arise from any written information furnished to us by the Selling Securityholder specifically for use in this prospectus, or we may be entitled to contribution.

The Selling Securityholder will be subject to the prospectus delivery requirements of the Securities Act including Rule 172 thereunder unless an exemption therefrom is available.



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We agreed to cause the registration statement of which this prospectus is a part to remain effective until the earlier to occur of (i) the date that all Securities have been sold or can be sold publicly without restriction or limitation under Rule 144 (including, without limitation, the requirement to be in compliance with Rule 144(c)(1)) or (ii) August 17, 2020. The Securities will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the Securities covered hereby may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the Securities may not simultaneously engage in market making activities with respect to the Securities for the applicable restricted period, as defined in Regulation M, prior to the commencement of the distribution. In addition, the Selling Securityholder will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of any Securities by the Selling Securityholder or any other person. We will make copies of this prospectus available to the Selling Securityholder and have informed them of the need to deliver a copy of this prospectus at or prior to the time of the sale (including by compliance with Rule 172 under the Securities Act).

There can be no assurance that any Selling Securityholder will sell any or all of the Securities we registered on behalf of the Selling Securityholder pursuant to the registration statement of which this prospectus forms a part.

Once sold under the registration statement of which this prospectus forms a part, the Securities will be freely tradable in the hands of persons other than our affiliates.

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**LEGAL MATTERS**

The validity of the Securities being offered hereby have been passed upon for us by Arnold & Porter Kaye Scholer LLP, New York, New York.

**EXPERTS**

The consolidated financial statements incorporated in this prospectus by reference from the company's Annual Report on Form 10-K, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated herein by reference. Such consolidated financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

**WHERE YOU CAN FIND MORE INFORMATION**

We are a reporting company and file annual, quarterly and current reports, proxy statements and other information with the SEC. We have filed with the SEC a registration statement on Form S-3 under the Securities Act with respect to the resale of the common stock the Selling Securityholder is offering under this prospectus. This prospectus does not contain all of the information set forth in the registration statement and the exhibits to the registration statement. For further information with respect to us and the common stock offered by the Selling Securityholder under this prospectus, we refer you to the registration statement and the exhibits filed as a part of the registration statement. You may read and copy the registration statement, as well as our reports, proxy statements and other information, at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for more information about the operation of the public reference room. The SEC also maintains an Internet site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC, including Enphase. The SEC's Internet site can be found at [www.sec.gov](http://www.sec.gov). We maintain a website at [www.enphase.com](http://www.enphase.com). Information found on, or accessible through, our website is not a part of, and is not incorporated into, this prospectus, and you should not consider it part of this prospectus.

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**INCORPORATION OF CERTAIN INFORMATION BY REFERENCE**

The SEC allows us to incorporate by reference the information we file with it, which means that we can disclose important information to you by referring you to another document that we have filed separately with the SEC. You should read the information incorporated by reference because it is an important part of this prospectus. Information in this prospectus supersedes information incorporated by reference that we filed with the SEC prior to the date of this prospectus, while information that we file later with the SEC will automatically update and supersede the information in this prospectus. We incorporate by reference into this prospectus and the registration statement of which this prospectus is a part the information or documents listed below that we have filed with the SEC (Commission File No. 001-35480):

- our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, filed with the SEC on March 15, 2019;
- the information specifically incorporated by reference in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018 from our Definition Proxy Statement on Schedule 14A, as amended, filed with the SEC on April 4, 2019;
- our Current Report on Form 8-K filed with the SEC on February 6, 2019; and
- the description of our common stock in our registration statement on Form 8-A filed with the SEC on March 28, 2012, including any further amendments thereto or reports filed for the purposes of updating this description.

We also incorporate by reference any future filings (other than current reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits filed on such form that are related to such items unless such Form 8-K expressly provides to the contrary) made with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, including those made after the date of the initial filing of the registration statement of which this prospectus is a part and prior to effectiveness of such registration statement, until we file a post-effective amendment that indicates the termination of the offering of the common stock made by this prospectus and will become a part of this prospectus from the date that such documents are filed with the SEC. Information in such future filings updates and supplements the information provided in this prospectus. Any statements in any such future filings will automatically be deemed to modify and supersede any information in any document we previously filed with the SEC that is incorporated or deemed to be incorporated herein by reference to the extent that statements in the later filed document modify or replace such earlier statements.

We will furnish without charge to each person, including any beneficial owner, to whom a prospectus is delivered, upon written or oral request, a copy of any or all of the documents incorporated by reference into this prospectus but not delivered with the prospectus, including exhibits that are specifically incorporated by reference into such documents.

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You can request a copy of these filings, at no cost, by writing or telephoning us at the following address or telephone number:

Enphase Energy, Inc.

47281 Bayside Parkway

Fremont, CA 94538

(707) 774-7000

Attn: Legal Department