

FUELCELL ENERGY INC
Form 424B5
June 20, 2013
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Filed Pursuant to Rule 424(b)(5)

Registration No. 333-164412

PROSPECTUS SUPPLEMENT

(To Prospectus dated September 21, 2010)

FUELCELL ENERGY, INC.

\$38,000,000

8% Senior Convertible Notes due 2018

This is an offering by FuelCell Energy, Inc. of \$38,000,000 aggregate principal amount of its 8% senior convertible notes due 2018.

The notes will bear interest at a rate of 8% per annum. Interest on the notes will be payable in cash or, subject to certain limitations, in stock semi-annually in arrears on December 15 and June 15 of each year, beginning December 15, 2013. The notes will mature on June 15, 2018, unless earlier converted or repurchased by us. The notes will be our senior, unsecured obligations and will rank equal in right of payment with our senior unsecured debt, and will be senior in right of payment to our debt that is expressly subordinated to the notes, if any. The notes will be structurally subordinated to all debt and other liabilities and commitments of our subsidiaries and joint ventures and will be effectively junior to our secured debt to the extent of the assets securing such debt.

The notes will be convertible, at your option, into shares of our common stock initially at a conversion rate of 645.1613 shares per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$1.55 per share), subject to adjustment as described in this prospectus supplement, at any time on or prior to the close of business on the business day immediately preceding the maturity date of the notes. If a holder elects to convert its notes in connection with a non-stock change in control (as defined in this prospectus supplement), we will, in certain circumstances, increase the conversion rate for notes converted in connection with such non-stock change in control. Upon conversion, we will deliver shares of our common stock based on the conversion rate in effect on the conversion date.

Our common stock is listed on The NASDAQ Global Market under the symbol FCEL. On June 19, 2013, the last reported sale price of our common stock was \$1.36 per share.

We do not intend to apply for listing of the notes on any securities exchange.

Our business and an investment in our securities involve significant risks. See Risk Factors beginning on page S-8 of this prospectus supplement and page 5 of the accompanying prospectus.

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

	Per Note	Total
Offering Price	100.0%	\$ 38,000,000
Underwriters' discount	5.5%	\$ 2,090,000
Proceeds to FuelCell (before expenses)	94.5%	\$ 35,910,000

We estimate the total expenses of this offering, excluding the underwriting commission, to be approximately \$300,000.

We anticipate that delivery of the notes will be made on or about June 25, 2013, subject to customary closing conditions.

Sole Book-Running Manager

LAZARD CAPITAL MARKETS

Co-Lead Manager

STIFEL

Prospectus supplement dated June 20, 2013.

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ABOUT THIS PROSPECTUS SUPPLEMENT

This document is in two parts. The first part is the prospectus supplement, which describes the specific terms of the securities we are offering and also adds to and updates information contained in the accompanying prospectus and the documents incorporated by reference into this prospectus supplement and the accompanying prospectus. The second part, the accompanying prospectus, provides more general information. Generally, when we refer to this prospectus, we are referring to both parts of this document combined. This prospectus supplement and the accompanying prospectus and the documents incorporated by reference herein and therein are part of a shelf registration statement that we filed with the Securities and Exchange Commission. Under the shelf registration process, we may offer from time to time shares of our common stock and other securities up to an original aggregate amount of \$150,000,000. This prospectus supplement and the accompanying prospectus and the documents incorporated by reference herein and therein include important information about us, our securities being offered and other information you should know before investing. You should read this prospectus supplement, the accompanying prospectus, the documents incorporated by reference in this prospectus supplement and the accompanying prospectus and any related free writing prospectus that we authorized to be delivered to you, as well as the additional information described under *Where You Can Find Additional Information* on page S-36 of this prospectus supplement and *Incorporation of Certain Information by Reference* on page S-36 of this prospectus supplement before investing in our securities.

To the extent there is a conflict between the information contained in this prospectus supplement, on the one hand, and the information contained in the accompanying prospectus or in any document incorporated by reference that was filed with the SEC before the date of this prospectus supplement, on the other hand, you should rely on the information in this prospectus supplement. If any statement in one of these documents is inconsistent with a statement in another document having a later date for example, a document incorporated by reference in this prospectus supplement or the accompanying prospectus the statement in the document having the later date modifies or supersedes the earlier statement.

You should rely only on the information contained in this prospectus supplement, the accompanying prospectus, any related free writing prospectus that we authorized to be distributed to you and the documents incorporated by reference herein and therein. We have not, and the placement agents have not, authorized anyone to provide you with information that is different. If anyone provides you with different or inconsistent information, you should not rely on it. We are offering to sell and seeking offers to buy shares of our common stock only in jurisdictions where offers and sales are permitted. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information contained in this prospectus supplement, the documents incorporated by reference in this prospectus supplement and the accompanying prospectus and any related free writing prospectus that we have authorized to be delivered to you is accurate only as of their respective dates, regardless of the time of delivery of such documents or of any sale of securities. Our business, financial condition, results of operations and prospects may have changed since those dates. You should not consider this prospectus supplement or the accompanying prospectus to be an offer or solicitation relating to the securities in any jurisdiction in which such an offer or solicitation relating to the securities is not authorized. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the common stock and the distribution of this prospectus outside the United States. Furthermore, you should not consider this prospectus supplement or the accompanying prospectus to be an offer or solicitation relating to the securities if the person making the offer or solicitation is not qualified to do so, or if it is unlawful for you to receive such an offer or solicitation.

Unless the context requires otherwise, in this prospectus supplement and the accompanying prospectus the terms *FuelCell*, *the Company*, *we*, *us*, *our* and similar names refer to FuelCell Energy, Inc and its subsidiaries.

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PROSPECTUS SUPPLEMENT SUMMARY

This summary highlights certain information about us, this offering and information appearing elsewhere in this prospectus supplement and in the accompanying prospectus and in the documents we incorporate by reference. This summary is not complete and does not contain all of the information that you should consider before investing in our notes. The following summary is qualified in its entirety by, and should be read in conjunction with, the more detailed information and financial statements and notes thereto appearing elsewhere in this prospectus supplement and the accompanying prospectus and incorporated by reference herein and therein. Before you decide to invest in our notes, to fully understand this offering and its consequences to you, you should carefully read the entire prospectus supplement and the accompanying prospectus carefully, including the risk factors beginning on page S-8 of this prospectus supplement and beginning on page 5 of the accompanying prospectus, and the consolidated financial statements and related notes included in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein.

FuelCell Energy, Inc.

Overview

We are a leading integrated fuel cell company with a growing global presence. We design, manufacture, install, operate and service ultra-clean, efficient and reliable stationary fuel cell power plants for distributed baseload power generation. Our power plants offer scalable on-site power and utility grid support, helping customers solve their energy, environmental and business challenges. Initially a research company, FuelCell Energy was founded in Connecticut in 1969 and became a publicly traded company in 1992. We reincorporated in Delaware in 1999 and began selling commercialized fuel cell power plants in 2003.

Our Company vision is to provide ultra-clean, highly efficient, reliable distributed generation baseload power at a cost per kilowatt hour that is less than the cost of grid-delivered electricity. Our power plants provide electricity that is priced competitively to grid-delivered electricity in certain high cost regions and our strategy is to continue to reduce costs, which is expected to lead to wider adoption of our power plants.

With fully commercialized ultra-clean fuel cell power plants and decades of experience in the industry, we are well positioned to grow our installed base of power plants. Our plants are operating in more than 50 locations worldwide and have generated more than 1.6 billion kilowatt hours (kWh) of electricity, which is equivalent to powering more than 145,000 average size U.S. homes for one year. Our installed base and steadily growing backlog exceeds 300 megawatts (MW).

Our customer base includes utility companies, municipalities, universities, government entities and businesses in a variety of commercial and industrial enterprises. Our leading geographic markets are South Korea and the United States, and we are pursuing expanding opportunities in Asia and Europe.

Our Direct FuelCell® (DFC®) power plants use a variety of available fuels to produce electricity electrochemically without combustion in a process that is highly efficient, quiet and produces virtually no pollutants. DFC power plants generate more power and fewer emissions for a given unit of fuel than combustion-based power generation of a similar size, making them economical and environmentally responsible power generation solutions. In addition to electricity, our DFC power plants produce high quality heat that can be used for heating, cooling and other purposes; when used in Combined Heat and Power (CHP) configurations, system efficiencies can reach 90 percent. Unlike solar and wind power, our DFC power plants operate continuously regardless of geography, weather or time of day.

We service two primary markets: ultra-clean power (fuel cells operating on clean natural gas) and renewable power (fuel cells operating on renewable biogas). Our strategy is to expand in the 11 distinct vertical submarkets we have identified and further penetrate our key geographic markets while continuing to reduce product costs and expand our services business created by our increasing installed base of power plants. The sale of higher volumes of our products will further reduce costs and increase margins.

Our executive offices are located at 3 Great Pasture Road, Danbury, Connecticut 06813. Our telephone number is (203) 825-6000. We maintain a web site at the following Internet address: www.fuelcellenergy.com. The information on our web site is not part of this prospectus.

As used in this prospectus, all degrees refer to Fahrenheit (F), and kilowatt and megawatt numbers designate nominal or rated capacity of the referenced power plant. As used in this prospectus, kilowatt (kW) means 1,000 watts; megawatt (MW) means 1,000,000 watts; and kilowatt hour (kWh) is equal to 1 kW of power supplied to or taken from an electric circuit steadily for one hour. All dollar amounts are in U.S. dollars unless otherwise noted.

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THE OFFERING

The following summary contains basic information about this offering and the notes and is not intended to be complete. It does not contain all of the information that may be important to you. For a more complete understanding of all of the terms and provisions of the notes, please refer to the section of this prospectus supplement entitled "Description of the Notes."

Issuer	FuelCell Energy, Inc. (the "Company," "us" or "we")
Securities Offered	\$38 million aggregate principal amount of 8% Senior Unsecured Convertible Notes due June 15, 2018, which we often refer to as the notes.
Offering Price	Each note will be issued at a price of 100% of its principal amount.
Maturity	June 15, 2018, unless earlier converted or repurchased. The principal payable under the notes will be payable in cash.
Interest Rate	8% per year. Interest will be payable in arrears in cash or shares of the Company's common stock, at the option of the Company, on December 15 and June 15 of each year, beginning December 15, 2013. If paid in shares, such shares will be valued at a 7.5% discount to market price. See "Description of the Notes—Interest Rate."
Ranking	The notes will be senior unsecured obligations and will rank equal in right of payment with all of our future senior unsecured indebtedness. The notes will be effectively subordinated to our secured indebtedness to the extent of the value of the related collateral, any senior secured indebtedness that we may incur in the future, and structurally subordinated to senior secured indebtedness and other liabilities of our subsidiaries.
Conversion Rights	<p>As of April 30, 2013, we and our subsidiaries had \$11.3 million of indebtedness outstanding, and approximately \$138.9 million of other liabilities outstanding. All the indebtedness outstanding was secured and no indebtedness was at the subsidiary level.</p> <p>You may convert your notes into shares of our common stock at any time prior to the close of business on the business day immediately preceding the maturity date.</p> <p>The notes will be convertible into shares of our common stock at an initial conversion rate of 645.1613 shares of common stock per \$1,000 principal amount of the notes (equivalent to an initial conversion price of approximately \$1.55 per share). The conversion rate, and thus the conversion price, may be adjusted under certain circumstances as described under "Description of the Notes—Conversion Rights—Conversion Rate Adjustments."</p>
Limitations on Conversion and Other Issuances of common stock Due to Market Regulation	We shall not be obligated to issue shares of our common stock upon conversion of the notes and will not be able to pay interest on the notes in shares of common stock to the extent the issuance of such

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	<p>shares of common stock would exceed, in the aggregate, 19.9% of our outstanding common stock on the date of this prospectus supplement (including shares of common stock issued as interest on the notes and as conversion of the notes), unless we obtain the prior approval of our stockholders (the Exchange Cap). We will settle our conversion and interest obligations, if any, in excess of this limitation in cash.</p>
Limitation on Beneficial Ownership	<p>Notwithstanding anything to the contrary, the notes shall not be convertible by you to the extent (but only to the extent) that you or any of your affiliates would beneficially own in excess of 4.99% of our outstanding common stock.</p>
Change of Control Repurchase	<p>If we undergo a change of control, we will offer to buy the notes at a premium. If a purchaser of FuelCell does not assume the obligations of the notes, you will be obligated to sell the notes to us at a premium. See Description of the Notes Repurchase Upon a Change of Control.</p>
Make-Whole Payments Upon Conversion	<p>If you elect to convert some or all of your notes, in addition to the consideration upon conversion, you will receive cash or a number of additional common shares for the notes being converted equal to the aggregate amount of accrued and unpaid interest, plus interest that would have been payable on the converted notes through, but not including, the earlier of (i) the date that is three years after the conversion date and (ii) the maturity date if the notes had not been so converted. If paid in shares, such shares will be valued at a 7.5% discount to market price and will be subject to the 19.9% limitation described above.</p>
Events of Default	<p>If an event of default on the notes occurs, the principal amount of the notes, plus accrued and unpaid interest, may be declared immediately due and payable, subject to certain conditions set forth in the indenture. These amounts automatically become due and payable in the case of certain types of bankruptcy or insolvency events of default involving the Company or certain of its subsidiaries.</p>
DTC Eligibility	<p>The notes will be issued in fully registered book-entry form and will be represented by one or more permanent global notes without coupons. Global notes will be deposited with a custodian for and registered in the name of a nominee of The Depository Trust Company (DTC). Beneficial interests in global notes will be shown on, and transfers thereof will be effected only through, records maintained by DTC and its direct and indirect participants, and your interest in any global note may not be exchanged for certificated notes, except in limited circumstances described herein. See Description of Notes Form, Denomination and Registration Global Notes, Book-Entry Form.</p>

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Absence of a Public Market for the Notes	The notes will be a new issue of securities. We cannot assure you that any active or liquid market will develop for the notes.
Trading	We do not intend to apply for listing of the notes on any securities exchange.
Nasdaq Symbol for Our Common Stock	Our common stock is traded on the Nasdaq Global Market (NasdaqGM) under the symbol FCEL.
Use of Proceeds	We intend to use the net proceeds from the offering for project financing, market development, and general corporate purposes.
U. S. Federal Income Tax Considerations	Interest and distributions on the notes will be taxable. Prospective purchasers of the notes are urged to consult their own tax advisors concerning the U.S. Federal income tax consequences to them of acquiring, owning and disposing of our notes, as well as the application of state, local and foreign income and other tax laws.
Risk Factors	You should carefully consider all of the information contained or incorporated by reference in this prospectus supplement prior to investing in the notes. In particular, we urge you to carefully consider the information set forth under Risk Factors beginning on page S-8 of this prospectus supplement and the Risk Factors in the accompanying prospectus for a discussion of risks and uncertainties relating to us, our business and an investment in the notes.

FuelCell has filed a registration statement (including a prospectus) with the Securities and Exchange Commission for the offering to which this communication relates. Before you invest, you should read the prospectus in that registration statement, the preliminary prospectus supplement forming a part thereof and other documents that FuelCell has filed with the SEC for more complete information about FuelCell and this offering. You may get these documents for free by visiting EDGAR on the SEC web site at www.sec.gov. Alternatively, FuelCell or Lazard Capital Markets LLC will arrange to send you the prospectus if you request it by contacting FuelCell at (203) 825-6000, Attention Investor Relations, or Lazard at (800) 542-0970.

Table of Contents**RISK FACTORS**

Investing in the notes involves risks. In addition, as a result of the conversion feature of the notes, a holder will also be exposed to the risks of owning our common stock, and the value of the notes may fluctuate with the value of our common stock. You should carefully consider the risks described below relating to an investment in notes and our common stock, as well as the risks relating to our business and all other information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus, in particular the risk factors included in our annual report on Form 10-K for the year ended October 31, 2012 and in our quarterly report on Form 10-Q for the quarter ended April 30, 2013, before making an investment decision. The risks and uncertainties described below, in the accompanying prospectus and in our other filings with the SEC incorporated by reference herein are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also adversely affect us. If any of the following risks occur, our business, financial condition or results of operations could be materially harmed. In such case, the value of the notes could decline and you may lose all or part of your investment.

Risks Related to Our Business.

We have incurred losses and anticipate continued losses and negative cash flow.

We have been transitioning from a contract research and development company to a commercial products developer, manufacturer and services provider. As such, we have not been profitable since our fiscal year ended October 31, 1997. We expect to continue to incur net losses and generate negative cash flows until we can produce sufficient revenues to cover our costs. We may never become profitable. Even if we do achieve profitability, we may be unable to sustain or increase our profitability in the future. For the reasons discussed in more detail below, there are substantial uncertainties associated with our achieving and sustaining profitability. We have, from time to time, sought financing in the public markets in order to fund operations. Our future ability to obtain such financing, if required, could be impaired by a variety of factors, including, but not limited to, the price of our common stock and general market conditions.

Our cost reduction strategy may not succeed or may be significantly delayed, which may result in our inability to deliver improved margins.

Our cost reduction strategy is based on the assumption that continued increases in production will result in economies of scale. In addition, our cost reduction strategy relies on advancements in our manufacturing process, global competitive sourcing, engineering design and technology improvements (including stack life and projected power output). Failure to achieve our cost reduction targets could have a material adverse effect on our results of operations and financial condition.

Our products compete with products using other energy sources, and if the prices of the alternative sources are lower than energy sources used by our products, sales of our products will be adversely affected. Volatility of electricity and fuel prices may impact sales of our products and services in the markets in which we compete.

Our DFC Power Plants operate using a variety of fuels, including natural gas, methanol, diesel, biogas, coal gas, coal mine methane, and propane. If these fuels are not readily available or if their prices increase such that electricity produced by our products costs more than electricity provided by other generation sources, our products would be less economically attractive to potential customers. In addition, we have no control over the prices of several types of competitive energy sources such as oil, gas or coal as well as local utility electricity costs. Significant decreases (or short term increases) in the price of these fuels or grid delivered prices for electricity could also have a material adverse effect on our business because other generation sources could be more economically attractive to consumers than our products.

The reduction or elimination of government subsidies and economic incentives for alternative energy technologies, including our fuel cell power plants, could reduce demand for our products and services, lead to a reduction in our revenues and adversely impact our operating results.

We believe that the near-term growth of alternative energy technologies, including our fuel cells, relies on the availability and size of government and economic incentives (including, but not limited to, the U.S. Federal ITC, the incentive programs in South Korea and state renewable portfolio standard programs). Many of these government incentives expire, phase out over time, exhaust the allocated funding, or require renewal by the applicable authority. In addition, these incentive programs could be challenged by utility companies, or for other reasons found to be unconstitutional, and/or could be reduced or discontinued for other reasons. The reduction, elimination, or expiration of government subsidies and economic incentives may result in the diminished economic competitiveness of our power plants to our customers and could materially and adversely affect the growth of alternative energy technologies, including our fuel cells, as well as our future operating results.

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Financial markets worldwide have experienced increased volatility and instability which may have a material adverse impact on our Company, our customers and our suppliers.

Financial market volatility and instability affects both debt and equity markets. This may impact the amount of financing available to all companies, including companies with substantially greater resources, better credit ratings and more successful operating histories than ours. It is impossible to predict future financial market volatility and instability and the impact on our Company and it may have a materially adverse effect on us for a number of reasons, such as:

The long term nature of our sales cycle often requires long lead times between order booking and product fulfillment. For this, we often require substantial cash down payments in advance of delivery. Our growth strategy assumes that financing will be available for our customers to provide for such down payments and to pay for our products. Financial market issues may delay, cancel or restrict the construction budgets and funds available to our customers that we expect to be the ultimate purchasers of our products and services.

Projects using our products are, in part, financed by equity investors interested in tax benefits as well as by the commercial and governmental debt markets. The significant volatility in the U.S. and international stock markets since 2008 has caused significant uncertainty and may result in an increase in the return required by investors in relation to the risk of such projects.

If we, or our customers and suppliers, cannot obtain financing under favorable terms, our business may be negatively impacted.

We have signed product sales contracts, long-term service agreements and power purchase agreements with customers subject to technology and operating risks as well as market conditions that may affect our operating results.

The Company applies the percentage of completion revenue recognition method to certain product sales contracts which are subject to estimates. On a quarterly basis, the Company performs a review process to help ensure that total estimated contract costs include estimates of costs to complete that are based on the most recent available information. The percentage of completion for the customer contracts based on this cost analysis is then applied to the total customer contract values to determine the total revenue to be recognized to date.

We have contracted under long-term service agreements with certain customers to provide service on our products over terms ranging from one to 20 years. Under the provisions of these contracts, we provide services to maintain, monitor, and repair customer power plants to meet minimum operating levels. Pricing for service contracts is based upon estimates of future costs including future stack replacements. While we have conducted tests to determine the overall life of our products, we have not run our products over their projected useful life prior to large-scale commercialization. As a result, we cannot be sure that our products will last to their expected useful life, which could result in warranty claims, performance penalties, maintenance and stack replacement costs in excess of our estimates and losses on service contracts.

The Company has one customer who purchases power under a Power purchase agreement (PPA), whereby the customer agrees to purchase power from our fuel cell power plants at negotiated rates. Electricity rates are generally a function of the customer's current and future electricity pricing available from the grid. Should electricity rates decrease or operating costs increase from our original estimates, our results of operations could be negatively impacted. We are not required to produce minimum amounts of power under this PPA agreement. We provide termination rights by giving written notice to the customer, subject to certain exit costs.

We extend product warranties, which could affect our operating results.

We warranty our products for a specific period of time against manufacturing or performance defects. We accrue for warranty costs based on historical warranty claim experience, however actual future warranty expenses may be greater than we've assumed in our estimates. As a result, operating results could be negatively impacted should there be product manufacturing or performance defects in excess of our estimates.

Our products are complex and could contain defects and may not operate at expected performance levels which could impact sales and market adoption of our products or result in claims against us.

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We develop complex and evolving products. Our initial installations were demonstration power plants intended to test the technology in real-world applications. We learned extensively from these demonstration installations, enhancing the technology and improving the operation of the power plants. Our first commercial Direct FuelCell power plant installation in 2003 had a rated power output of 250 kW and a 3 year stack life. Most of these 250 kW installations were terminated at contract conclusion or earlier as the costs were too high to justify continuation and the customer's power needs did not support a megawatt-class power plant. Certain of these early product designs did not meet our expectations resulting in mixed performance history, impacting the adoption rate of our products. Costs are

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lower for our newer megawatt-class plants compared to sub-megawatt plants due to scale. With the growing expertise gained from an expanding installed base, we continue to advance the capabilities of the fuel cell stacks and are now producing stacks with a rated power output of 350 kW and an expected five year life.

We have limited field operating experience on our products, and despite experience gained from our growing installed base and testing performed by us, our customers and our suppliers, issues may be found in existing or new products. This could result in a delay in recognition or loss of revenues, loss of market share or failure to achieve broad market acceptance. The occurrence of defects could also cause us to incur significant warranty, support and repair costs, could divert the attention of our engineering personnel from our product development efforts, and could harm our relationships with our customers. The occurrence of these problems could result in the delay or loss of market acceptance of our products and would likely harm our business. Defects or performance problems with our products could result in financial or other damages to our customers. From time to time, we have been involved in disputes regarding product warranty issues. Although we seek to limit our liability, a product liability claim brought against us, even if unsuccessful, would likely be time consuming and could be costly to defend. Our customers could also seek and obtain damages from us for their losses. We have reserved for potential damages related to performance problems, however actual results may be different than the assumptions used in our reserve calculations.

We currently face and will continue to face significant competition.

We compete on the basis of our products' reliability, efficiency, environmental considerations and cost. Technological advances in alternative energy products or improvements in the electric grid or other sources of power generation, or other fuel cell technologies may negatively affect the development or sale of some or all of our products or make our products non-competitive or obsolete prior to commercialization or afterwards. Other companies, some of which have substantially greater resources than ours, are currently engaged in the development of products and technologies that are similar to, or may be competitive with, our products and technologies.

Several companies are involved in fuel cell development, although we believe we are the only domestic company engaged in significant manufacturing and commercialization of carbonate fuel cells. Emerging fuel cell technologies (and companies developing them) include PEM fuel cells (Ballard Power Systems, Inc.), phosphoric acid fuel cells (ClearEdge Power) and solid oxide fuel cells (LG, and Bloom Energy). Each of these competitors has the potential to capture market share in our target markets. There are also other potential fuel cell competitors internationally that could capture market share.

Other than fuel cell developers, we must also compete with companies that manufacture more mature combustion-based equipment, including various engines and turbines, and have well-established manufacturing, distribution, and operating and cost features. Electrical efficiency of these products can be competitive with our DFC Power Plants in certain applications. Significant competition may also come from gas turbine companies.

We have a large and influential stockholder, which may make it difficult for a third party to acquire our common stock.

POSCO currently owns approximately 16 percent of our outstanding common stock, which could make it difficult for a third party to acquire our common stock. POSCO is also a licensee of our technology and purchaser of our products. Therefore, it may be in their interests to possess substantial influence over matters concerning our overall strategy and technological and commercial development.

We have limited experience manufacturing our products on a commercial basis, which may adversely affect our planned increases in production capacity and our ability to satisfy customer requirements.

Our first commercial power plant installation was in 2003 so we have limited experience manufacturing our products on a commercial basis. With full utilization under its current configuration, our overall manufacturing process has a production capacity of 90 MW per year depending on product mix and other factors. We expect that we will further increase our manufacturing capacity based on market demand. We cannot be sure that we will be able to achieve any planned increases in production capacity. Also, as we scale up our production capacity, we cannot be sure that unplanned failures or other technical problems relating to the manufacturing process will not occur.

Even if we are successful in achieving our planned increases in production capacity, we cannot be sure that we will do so in time to satisfy the requirements of our customers. Our failure to develop advanced manufacturing capabilities and processes, or meet our cost goals, could have a material adverse effect on our business prospects, results of operations and financial condition.

Unanticipated increases or decreases in business growth may result in adverse financial consequences for us.

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If our business grows more quickly than we anticipate, our existing and planned manufacturing facilities may become inadequate and we may need to seek out new or additional space, at considerable cost to us. If our business does not grow as quickly as we expect, our existing and planned manufacturing facilities would, in part, represent excess capacity for which we may not recover the cost; in that circumstance, our revenues may be inadequate to support our committed costs and our planned growth, and our gross margins, and business strategy would be adversely affected.

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Our plans are dependent on market acceptance of our products.

Our plans are dependent upon market acceptance of, as well as enhancements to, our products. Fuel cell systems represent an emerging market, and we cannot be sure that potential customers will accept fuel cells as a replacement for traditional power sources. As is typical in a rapidly evolving industry, demand and market acceptance for recently introduced products and services are subject to a high level of uncertainty and risk. Since the distributed generation market is still evolving, it is difficult to predict with certainty the size of the market and its growth rate. The development of a market for our products may be affected by many factors that are out of our control, including:

the cost competitiveness of our fuel cell products including availability and output expectations and total cost of ownership;

the future costs of clean natural gas and other fuels used by our fuel cell products;

customer reluctance to try a new product;

the market for distributed generation;

local permitting and environmental requirements; and

the emergence of newer, more competitive technologies and products.

If a sufficient market fails to develop or develops more slowly than we anticipate, we may be unable to recover the losses we will have incurred in the development of our products and may never achieve profitability.

As we continue to expand markets for our products, we intend to continue offering power production guarantees and other terms and conditions relating to our products that will be acceptable to the marketplace, and continue to develop a service organization that will aid in servicing our products and obtain self-regulatory certifications, if available, with respect to our products. Failure to achieve any of these objectives may also slow the development of a sufficient market for our products and, therefore, have a material adverse effect on our results of operations and financial condition.

We are substantially dependent on a concentrated number of customers and the loss of any one of these customers could adversely affect our business, financial condition and results of operations.

We contract with a concentrated number of customers for the sale of products and for research and development contracts. This includes POSCO, which is a related party and owns approximately 16 percent of the outstanding common shares of the Company.

There can be no assurance that we will continue to achieve the current level of sales of our products to our largest customers. Even though our customer base is expected to increase and our revenue streams to diversify, a substantial portion of net revenues could continue to depend on sales to a limited number of customers. Our agreements with these customers may be cancelled if we fail to meet certain product specifications or materially breach the agreements, and our customers may seek to renegotiate the terms of current agreements or renewals. The loss of, or a reduction in sales to, one or more of our larger customers could have a material adverse effect on our business, financial condition and results of operations.

Our research and development contracts are subject to the risk of termination by the contracting party and we may not realize the full amounts allocated under the contracts due to the lack of Congressional appropriations.

A portion of our fuel cell revenues have been derived from long-term cooperative agreements and other contracts with the U.S. Department of Energy, the U.S. Department of Defense, the U.S. Navy, and other U.S. Government agencies. These agreements are important to the continued

development of our technology and our products.

Generally, our government research and development contracts are subject to the risk of termination at the convenience of the contracting agency. Furthermore, these contracts, irrespective of the amounts allocated by the contracting agency, are subject to annual Congressional appropriations and the results of government or agency sponsored reviews and audits of our cost reduction projections and efforts. We can only receive funds under these contracts ultimately made available to us annually by Congress as a result of the appropriations process. Accordingly, we cannot be sure whether we will receive the full amounts awarded under our government research and development or other contracts. Failure to receive the full amounts under any of our government research and development contracts could materially and adversely affect our business prospects, results of operations and financial condition.

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A negative government audit could result in an adverse adjustment of our revenue and costs and could result in civil and criminal penalties.

Government agencies, such as the Defense Contract Audit Agency, routinely audit and investigate government contractors. These agencies review a contractor's performance under its contracts, cost structure, and compliance with applicable laws, regulations, and standards. If the agencies determine through these audits or reviews that we improperly allocated costs to specific contracts, they will not reimburse us for these costs. Therefore, an audit could result in adjustments to our revenue and costs.

Further, although we have internal controls in place to oversee our government contracts, no assurance can be given that these controls are sufficient to prevent isolated violations of applicable laws, regulations and standards. If the agencies determine that we or one of our subcontractors engaged in improper conduct, we may be subject to civil or criminal penalties and administrative sanctions, payments, fines, and suspension or prohibition from doing business with the government, any of which could materially affect our results of operations and financial condition.

The U.S. government has certain rights relating to our intellectual property, including restricting or taking title to certain patents.

Many of our U.S. patents relating to our fuel cell technology are the result of government-funded research and development programs. We own all patents resulting from research funded by our DOE contracts awarded to date, based on our small business status when each contract was awarded. Under current regulations, patents resulting from research funded by government agencies other than the DOE are owned by us, whether or not we are a small business.

Nine U.S. patents that we own have resulted from government-funded research and are subject to the risk of exercise of march-in rights by the government. March-in rights refer to the right of the U.S. government or a government agency to exercise its non-exclusive, royalty-free, irrevocable worldwide license to any technology developed under contracts funded by the government if the contractor fails to continue to develop the technology. These march-in rights permit the U.S. government to take title to these patents and license the patented technology to third parties if the contractor fails to utilize the patents. In addition, one of our DOE-funded research and development agreements also required us to agree that we will not provide to a foreign entity any fuel cell technology subject to that agreement unless the fuel cell technology will be substantially manufactured in the U.S.

We now qualify as a Large Business, which could adversely affect our rights to own future patents under DOE-funded contracts.

This year, we qualify as a large business under DOE contracts. This allows us to own the patents that we develop under new DOE contracts if we obtain a waiver from DOE. A large business under applicable government regulations generally consists of more than 500 employees averaged over a one year period. We will no longer own future patents we develop under new contracts, grants or cooperative agreements funded by the DOE, unless we obtain a patent waiver from the DOE. Should we not obtain a patent waiver and outright ownership, we would nevertheless retain exclusive rights to any such patents, so long as we continue to commercialize the technology covered by the patents.

Our future success and growth is dependent on our market strategy.

We cannot assure you that we will enter into partnerships that are consistent with, or sufficient to support, our commercialization plans, and our growth strategy or that these relationships will be on terms favorable to us. Even if we enter into these types of relationships, we cannot assure you that the partners with which we form relationships will focus adequate resources on selling our products or will be successful in selling them. Some of these arrangements have or will require that we grant exclusive rights to companies in defined territories. These exclusive arrangements could result in our being unable to enter into other arrangements at a time when the partner with which we form a relationship is not successful in selling our products or has reduced its commitment to marketing our products. In addition, future arrangements may also include, the issuance of equity and warrants to purchase our equity, which may have an adverse effect on our stock price. To the extent we enter into partnerships or relationships, the failure of these partners to assist us with the deployment of our products may adversely affect our results of operations and financial condition.

We depend on third party suppliers for the development and supply of key raw materials and components for our products.

We use various raw materials and components to construct a fuel cell module, including nickel and stainless steel which are critical to our manufacturing process. We also rely on third-party suppliers for the balance-of-plant components in our products. Suppliers must undergo a qualification process, which takes four to twelve months. We continually evaluate new suppliers and we are currently qualifying several new suppliers. There are a limited number of suppliers for some of the key components of products. A supplier's failure to develop and supply components in a timely manner, supply components that meet our quality, quantity or cost requirements, technical specifications, or our inability to obtain alternative sources of these components on a timely basis or on terms acceptable to us could harm our ability to manufacture our Direct

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FuelCell products. In addition, to the extent the processes that our suppliers use to manufacture components are proprietary; we may be unable to obtain comparable components from alternative suppliers.

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We do not know whether we will be able to maintain long-term supply relationships with our critical suppliers, or secure new long-term supply relationships, or whether such relationships will be on terms that will allow us to achieve our objectives. Our business prospects, results of operations and financial condition could be harmed if we fail to secure long-term relationships with entities that will supply the required components for our Direct FuelCell products.

We depend on our intellectual property, and our failure to protect that intellectual property could adversely affect our future growth and success.

Failure to protect our existing intellectual property rights may result in the loss of our exclusivity or the right to use our technologies. If we do not adequately ensure our freedom to use certain technology, we may have to pay others for rights to use their intellectual property, pay damages for infringement or misappropriation, or be enjoined from using such intellectual property. We rely on patent, trade secret, trademark and copyright law to protect our intellectual property. In addition, we have licensed much of our intellectual property to carefully selected third parties, and we depend on those third parties to also protect our intellectual property rights. As of April 30, 2013, we had 116 current U.S. patents and 228 international patents covering our fuel cell technology (including patents licensed to FCES). The U.S. patents have an average remaining life of approximately 10.7 years.

Some of our intellectual property is not covered by any patent or patent application and includes trade secrets and other know-how that is not able to be patented, particularly as it relates to our manufacturing processes and engineering design. In addition, some of our intellectual property includes technologies and processes that may be similar to the patented technologies and processes of third parties. If we are found to be infringing third-party patents, we do not know whether we will be able to obtain licenses to use such patents on acceptable terms, if at all. Our patent position is subject to complex factual and legal issues that may give rise to uncertainty as to the validity, scope, and enforceability of a particular patent.

We cannot assure you that any of the U.S. or international patents owned by us or other patents that third parties license to us will not be invalidated, circumvented, challenged, rendered unenforceable or licensed to others, or any of our pending or future patent applications will be issued with the breadth of claim coverage sought by us, if issued at all. In addition, effective patent, trademark, copyright and trade secret protection may be unavailable, limited or not applied for in certain foreign countries.

We also seek to protect our proprietary intellectual property, including intellectual property that may not be patented or able to be patented, in part by confidentiality agreements and, if applicable, inventors' rights agreements with our subcontractors, vendors, suppliers, consultants, strategic partners and employees. We cannot assure you that these agreements will not be breached, that we will have adequate remedies for any breach or that such persons or institutions will not assert rights to intellectual property arising out of these relationships. Certain of our intellectual property have been licensed to us on a non-exclusive basis from third parties that may also license such intellectual property to others, including our competitors. If our licensors are found to be infringing third-party patents, we do not know whether we will be able to obtain licenses to use the intellectual property licensed to us on acceptable terms, if at all.

If necessary or desirable, we may seek extensions of existing licenses or further licenses under the patents or other intellectual property rights of others. However, we can give no assurances that we will obtain such extensions or further licenses or that the terms of any offered licenses will be acceptable to us. The failure to obtain a license from a third party for intellectual property that we use at present could cause us to incur substantial liabilities, and to suspend the manufacture or shipment of products or our use of processes requiring the use of that intellectual property.

While we are not currently engaged in any intellectual property litigation, we could become subject to lawsuits in which it is alleged that we have infringed the intellectual property rights of others or commence lawsuits against others who we believe are infringing upon our rights. Our involvement in intellectual property litigation could result in significant expense to us, adversely affecting the development of sales of the challenged product or intellectual property and diverting the efforts of our technical and management personnel, whether or not that litigation is resolved in our favor.

Our future success will depend on our ability to attract and retain qualified management and technical personnel.

Our future success is substantially dependent on the continued services and on the performance of our executive officers and other key management, engineering, scientific, manufacturing and operating personnel, particularly Arthur Bottone, our Chief Executive Officer. The loss of the services of any executive officer, including Mr. Bottone, or other key management, engineering, scientific, manufacturing and operating personnel, could materially adversely affect our business. Our ability to achieve our commercialization plans will also depend on our ability to attract and retain additional qualified management and technical personnel. Recruiting personnel for the fuel cell industry is competitive. We do not know whether we will be able to attract or retain additional qualified management and technical personnel. Our inability to attract and retain

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additional qualified management and technical personnel, or the departure of key employees, could materially and adversely affect our development and commercialization plans and, therefore, our business prospects, results of operations and financial condition.

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Our management may be unable to manage rapid growth effectively.

We may rapidly expand our manufacturing capabilities, accelerate the commercialization of our products and enter a period of rapid growth, which will place a significant strain on our senior management team and our financial and other resources. Any expansion may expose us to increased competition, greater overhead, marketing and support costs and other risks associated with the commercialization of a new product. Our ability to manage rapid growth effectively will require us to continue to improve our operations, to improve our financial and management information systems and to train, motivate and manage our employees. Difficulties in effectively managing issues presented by such a rapid expansion could harm our business prospects, results of operations and financial condition.

We may be affected by environmental and other governmental regulation.

We are subject to various federal, state and local laws and regulations relating to, among other things, land use, safe working conditions, handling and disposal of hazardous and potentially hazardous substances and emissions of pollutants into the atmosphere. In addition, it is possible that industry-specific laws and regulations will be adopted covering matters such as transmission scheduling, distribution, and the characteristics and quality of our products, including installation and servicing. These regulations could limit the growth in the use of carbonate fuel cell products, decrease the acceptance of fuel cells as a commercial product and increase our costs and, therefore, the price of our products. Accordingly, compliance with existing or future laws and regulations could have a material adverse effect on our business prospects, results of operations and financial condition.

Utility companies may resist the adoption of distributed generation and could impose customer fees or interconnection requirements on our customers that could make our products less desirable.

Investor-owned utilities may resist adoption of distributed generation fuel cell plants as the power plants are disruptive to the utility business model that primarily utilizes large central generation power plants and associated transmission and distribution. On-site distributed generation that is on the customer-side of the electric meter competes with the utility. Distributed generation on the utility-side of the meter generally has power output that is significantly less than central generation power plants and may be perceived by the utility as too small to materially impact their business, limiting their interest. Additionally, perceived technology risk may limit utility interest in stationary fuel cell power plants.

Utility companies commonly charge fees to larger, industrial customers for disconnecting from the electric grid or for having the capacity to use power from the electric grid for back up purposes. These fees could increase the cost to our customers of using our Direct FuelCell products and could make our products less desirable, thereby harming our business prospects, results of operations and financial condition.

Several U.S. states have created and adopted, or are in the process of creating, their own interconnection regulations covering both technical and financial requirements for interconnection to utility grids. Depending on the complexities of the requirements, installation of our systems may become burdened with additional costs that might have a negative impact on our ability to sell systems. The Institute of Electrical and Electronics Engineers has been working to create an interconnection standard addressing the technical requirements for distributed generation to interconnect to utility grids. Many parties are hopeful that this standard will be adopted nationally to help reduce the barriers to deployment of distributed generation such as fuel cells; however this standard may not be adopted nationally thereby limiting the commercial prospects and profitability of our fuel cell systems.

We could be liable for environmental damages resulting from our research, development or manufacturing operations.

Our business exposes us to the risk of harmful substances escaping into the environment, resulting in personal injury or loss of life, damage to or destruction of property, and natural resource damage. Depending on the nature of the claim, our current insurance policies may not adequately reimburse us for costs incurred in settling environmental damage claims, and in some instances, we may not be reimbursed at all. Our business is subject to numerous federal, state, and local laws and regulations that govern environmental protection and human health and safety. We believe that our businesses are operating in compliance in all material respects with applicable environmental laws, however these laws and regulations have changed frequently in the past and it is reasonable to expect additional and more stringent changes in the future.

Our operations may not comply with future laws and regulations and we may be required to make significant unanticipated capital and operating expenditures. If we fail to comply with applicable environmental laws and regulations, governmental authorities may seek to impose fines and penalties on us or to revoke or deny the issuance or renewal of operating permits and private parties may seek damages from us. Under those circumstances, we might be required to curtail or cease operations, conduct site remediation or other corrective action, or pay substantial damage claims.

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Our products use inherently dangerous, flammable fuels, operate at high temperatures and use corrosive carbonate material, each of which could subject our business to product liability claims.

Our business exposes us to potential product liability claims that are inherent in products that use hydrogen. Our products utilize fuels such as natural gas and convert these fuels internally to hydrogen that is used by our products to generate electricity. The fuels we use are combustible and may be toxic. In addition, our Direct FuelCell products operate at high temperatures and use corrosive carbonate material, which could expose us to potential liability claims. Although we have incorporated a robust design and redundant safety features in our power plants and have established and comprehensive safety, maintenance, and training programs in place, follow third-party certification protocols, codes and standards, and do not store natural gas or hydrogen at our power plants, we cannot guarantee there will not be accidents. Any accidents involving our products or other hydrogen-using products could materially impede widespread market acceptance and demand for our products. In addition, we might be held responsible for damages beyond the scope of our insurance coverage. We also cannot predict whether we will be able to maintain adequate insurance coverage on acceptable terms.

We are subject to risks inherent in international operations.

Since we market our products both inside and outside the U.S., our success depends in part, on our ability to secure international customers and our ability to manufacture products that meet foreign regulatory and commercial requirements in target markets. Sales to customers located outside the U.S. accounts for a significant portion of our consolidated revenue. Sales to customers in South Korea represent the majority of our international sales. We have limited experience developing and manufacturing our products to comply with the commercial and legal requirements of international markets. In addition, we are subject to tariff regulations and requirements for export licenses, particularly with respect to the export of some of our technologies. We face numerous challenges in our international expansion, including unexpected changes in regulatory requirements, potential conflicts or disputes that countries may have to deal with, fluctuations in currency exchange rates, longer accounts receivable requirements and collections, difficulties in managing international operations, potentially adverse tax consequences, restrictions on repatriation of earnings and the burdens of complying with a wide variety of international laws. Any of these factors could adversely affect our results of operations and financial condition.

We depend on relationships with strategic partners, and the terms and enforceability of many of these relationships are not certain.

We have entered into relationships with strategic partners for design, product development, sale and service of our existing products, and products under development, some of which may not have been documented by a definitive agreement. The terms and conditions of many of these agreements allow for termination by the partners. Termination of any of these agreements could adversely affect our ability to design, develop and distribute these products to the marketplace. We cannot assure you that we will be able to successfully negotiate and execute definitive agreements with any of these partners, and failure to do so may effectively terminate the relevant relationship.

If we fail to maintain an effective system of internal controls, we may not be able to accurately report our financial results or prevent fraud, which could harm our brand and operating results.

Effective internal controls are necessary for us to provide reliable and accurate financial reports and effectively prevent fraud. We have devoted significant resources and time to comply with the internal control over financial reporting requirements of the Sarbanes-Oxley Act of 2002. In addition, Section 404 under the Sarbanes-Oxley Act of 2002 requires that we assess, and that our auditors attest to, the design and operating effectiveness of our controls over financial reporting. Our compliance with the annual internal control report requirement for each fiscal year will depend on the effectiveness of our financial reporting and data systems and controls. Inferior internal controls could cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our stock and our access to capital.

Our results of operations could vary as a result of methods, estimates and judgments we use in applying our accounting policies.

The methods, estimates and judgments we use in applying our accounting policies have a significant impact on our results of operations (see Critical Accounting Policies and Estimates in Part II, Item 7). Such methods, estimates and judgments are, by their nature, subject to substantial risks, uncertainties and assumptions, and factors may arise over time that could lead us to reevaluate our methods, estimates and judgments.

As we gain experience in future periods, management will continue to reevaluate its estimates for contract margins, service agreements, loss reserves, warranty, performance guarantees, liquidated damages and inventory reserves. Changes in those estimates and judgments could significantly affect our results of operations and financial condition. We may also adopt changes required by the Financial Accounting Standards Board and the Securities and Exchange Commission.

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Risks Related to Our Stock.

Our stock price has been and could remain volatile.

The market price for our common stock has been and may continue to be volatile and subject to extreme price and volume fluctuations in response to market and other factors, including the following, some of which are beyond our control:

failure to meet commercialization milestones;

variations in our quarterly operating results from the expectations of securities analysts or investors;

downward revisions in securities analysts' estimates or changes in general market conditions;

announcements of technological innovations or new products or services by us or our competitors;

announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures or capital commitments;

additions or departures of key personnel;

investor perception of our industry or our prospects;

insider selling or buying;

demand for our common stock; and

general technological or economic trends.

In the past, following periods of volatility in the market price of their stock, many companies have been the subjects of securities class action litigation. If we became involved in securities class action litigation in the future, it could result in substantial costs and diversion of management's attention and resources and could harm our stock price, business prospects, results of operations and financial condition.

Provisions of Delaware and Connecticut law and of our charter and by-laws may make a takeover more difficult.

Provisions in our certificate of incorporation and by-laws and in Delaware and Connecticut corporate law may make it difficult and expensive for a third-party to pursue a tender offer, change in control or takeover attempt that is opposed by our management and board of directors. Public stockholders who might desire to participate in such a transaction may not have an opportunity to do so. These anti-takeover provisions could substantially impede the ability of public stockholders to benefit from a change in control or change in our management and board of directors.

Future sales of substantial amounts of our common stock could affect the market price of our common stock.

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Future sales of substantial amounts of our common stock, or securities convertible or exchangeable into shares of our common stock, into the public market, including shares of our common stock issued upon exercise of options, or perceptions that those sales could occur, could adversely affect the prevailing market price of our common stock and our ability to raise capital in the future.

The rights of the Series 1 preferred shares and Series B preferred stock could negatively impact our cash flows.

The terms of the Series 1 preferred shares issued by FCE FuelCell Energy, Ltd. (FCE Ltd.), our wholly-owned, indirect subsidiary, provide rights to the holder, Enbridge Inc. (Enbridge), which could negatively impact us.

The provisions of the Series 1 Preferred Shares require that FCE Ltd. make annual dividend payments totaling Cdn. \$1,250,000, including (i) annual dividend payments of Cdn. \$500,000 and (ii) annual return of capital payments of Cdn. \$750,000. These payments will end on December 31, 2020. Additional dividends accrue on cumulative unpaid dividends at a 1.25 percent quarterly rate, compounded quarterly, until payment thereof. On December 31, 2020 the amount of all accrued and unpaid dividends on the Series 1 Preferred Shares of Cdn. \$21.1 million and the balance of the principal redemption price of Cdn. \$4.4 million shall be paid to the holders of the Series 1 Preferred Shares. FCE Ltd. has the option of making dividend payments in the form of common stock or cash under the Series 1 Preferred Shares provisions.

We are also required to issue common stock to the holder of the Series 1 preferred shares if and when the holder exercises its conversion rights. The number of shares of common stock that we may issue upon conversion could be significant and dilutive to our existing stockholders. For example, assuming the holder of the Series 1 preferred shares exercises its conversion rights after July 31, 2020 and assuming our common stock price is \$1.05 (our common stock closing price on April 30, 2013) and an exchange rate of Cdn. \$1.00 to U.S.\$1.00 at the time of conversion, we would be required to issue approximately 4,455,932 shares of our common stock.

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The terms of the Series B preferred stock also provide rights to their holders that could negatively impact us. Holders of the Series B preferred stock are entitled to receive cumulative dividends at the rate of \$50 per share per year, payable either in cash or in shares of our common stock. To the extent the dividend is paid in shares, additional issuances could be dilutive to our existing stockholders and the sale of those shares could have a negative impact on the price of our common stock. A share of our Series B preferred stock may be converted at any time, at the option of the holder, into 85.1064 shares of our common stock (which is equivalent to an initial conversion price of \$11.75 per share), plus cash in lieu of fractional shares. Furthermore, the conversion rate applicable to the Series B preferred stock is subject to adjustment upon the occurrence of certain events.

Risks Related to this Offering and the Notes.

We will significantly increase our leverage as a result of the sale of the notes.

In connection with the sale of the notes, we will incur new indebtedness of \$38 million. The degree to which we will be leveraged could, among other things:

make it difficult for us to make payments on the notes;

make it difficult for us to obtain financing for working capital, acquisitions or other purposes on favorable terms, if at all;

make us more vulnerable to industry downturns and competitive pressures; and

limit our flexibility in planning for, or reacting to changes in, our business.

Our ability to meet our debt service obligations will depend upon our future performance, which will be subject to financial, business and other factors affecting our operations, many of which are beyond our control.

The terms of the notes will not include restrictive covenants and provide only limited protection in the event of a change of control.

The indenture under which the notes are issued will not contain any restrictive covenants that might protect you from several kinds of transactions that may adversely affect you. In particular, the indenture will not contain covenants that will limit our ability to pay dividends or make distributions on or redeem our capital stock and, therefore, may not protect you in the event of a highly leveraged transaction or other similar transaction. Nor will the indenture restrict the incurrence of indebtedness by us or our subsidiaries. The requirement that we offer to repurchase the notes upon a change of control is limited to the transactions specified in the definition of a fundamental change under Description of the Notes Repurchase at the Option of the Holder upon a Fundamental Change.

Accordingly, we could enter into certain transactions, such as acquisitions, refinancings or recapitalizations, that could affect our capital structure and the value of the notes and our common stock but would not constitute a fundamental change under the notes.

We may be unable to repay or repurchase the notes, including following a change of control.

At maturity, the entire outstanding principal amount of the notes will become due and payable by us. Upon a change of control, we may be obligated to repurchase your notes at a premium over the principal amount of the notes, plus accrued and unpaid interest to, but excluding, the date of the repurchase of the notes. We cannot assure you that we will have enough funds or be able to arrange for additional financing to pay the principal at maturity or to repurchase the notes or that our then-existing debt agreements will permit us to repay the principal amount at maturity or repurchase the notes.

Our failure to repay the notes at maturity or to repurchase notes would constitute an event of default under the indenture that governs the notes and may also constitute an event of default under any other indenture or other agreement governing then-existing indebtedness, which could prevent us from repurchasing the notes. If a change of control occurred and accelerated any other then-existing indebtedness, we cannot assure you that we would have sufficient financial resources, or be able to arrange for additional financing, to repay the principal amount at maturity or

pay the repurchase price for the notes and amounts due under any other indebtedness.

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Provisions of the notes could discourage an acquisition of us by a third party.

Certain provisions of the notes could make it more difficult or more expensive for a third party to acquire us. Upon the occurrence of certain transactions constituting a change of control, we would be obligated to offer to purchase the notes, at a cash repurchase price equal to a premium over the principal amount plus accrued and unpaid interest on the notes.

The conversion rate of the notes may not be adjusted for all dilutive events that may adversely affect the trading price of the notes or our common stock issuable upon conversion of the notes.

The conversion rate of the notes is subject to adjustment upon certain events, including the issuance of stock dividends on our common stock, the issuance of rights or warrants, subdivisions, combinations, distributions of capital stock, indebtedness or assets, cash dividends and issuer tender or exchange offers as described under Description of the Notes Conversion Rights Conversion Rate Adjustments. The conversion rate will not be adjusted for certain other events, including, for example, in issuance of stock for cash that may adversely affect the trading price of the notes or the common stock issuable upon conversion of the notes.

There is currently no public market for the notes, and an active trading market may not develop for the notes. The failure of a market to develop for the notes could adversely affect the liquidity and value of your notes.

The notes are a new issue of securities, and there is no existing market for the notes. We do not intend to apply for listing of the notes on any securities exchange or other stock market. Although we have been advised by the underwriters of the notes that they intend to make a market in the notes, they are not obligated to do so and may discontinue market making at any time without notice. A market may not develop for the notes, and there can be no assurance as to the liquidity of any market that may develop for the notes. If an active, liquid market does not develop for the notes, the market price and liquidity of the notes may be adversely affected. If any of the notes are traded after their initial issuance, they may trade at a discount from their initial offering price.

The liquidity of the trading market, if any, and future trading prices of the notes will depend on many factors, including, among other things, the market price of our common stock, prevailing interest rates, our operating results, financial performance and prospects, the market for similar securities and the overall securities market, and may be adversely affected by unfavorable changes in these factors. Historically, the market for convertible debt has been subject to disruptions that have caused volatility in prices. It is possible that the market for the notes will be subject to disruptions which may have a negative effect on the holders of the notes, regardless of our operating results, financial performance or prospects.

If you hold notes, you will not be entitled to any rights with respect to our common stock, but you will be subject to all changes made with respect to our common stock.

If you hold notes, you 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), but you will be subject to all changes affecting our common stock. You will have rights with respect to our common stock only if you convert your notes, which you are permitted to do only in limited circumstances described herein. For example, in the event that an amendment is proposed to our articles 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 delivery of our common stock to you, you will not be entitled to vote on the amendment, although you will nevertheless be subject to any changes in the powers, preferences or rights of our common stock.

Conversion of the notes will dilute the ownership interest of existing stockholders, including holders who had previously converted their notes.

To the extent we issue common stock upon conversion of the notes, the conversion of some or all of the notes will dilute the ownership interests of existing stockholders, including holders who had previously converted their notes. Any sales in the public market of the common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the notes may encourage short selling by market participants because the conversion of the notes could depress the price of our common stock. If all of the interest payments on the notes were paid in shares of common stock at an assumed price of \$1.36 per share, the last reported sale price on June 18, 2013, then we would issue an aggregate of 12,082,671 shares of common stock.

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The notes are subject to certain limitations on conversion, and to the issuance of common stock to satisfy redemption and interest payment obligations.

We may not affect any conversion of a note, and you do not have the right to convert any portion of a note, to the extent that after giving effect to such conversion, you (and your affiliates whose ownership of securities is not disaggregated in accordance with SEC Release No. 34-39538) would beneficially own in excess of 4.99% of the number of shares of our common stock outstanding immediately after giving effect to such conversion.

In addition, Nasdaq Rule 5635(d) could prevent us from issuing shares of our common stock at prices below the market price on the date of this prospectus supplement for purposes of satisfying redemption and interest payment obligations if the total number of shares so issued equals 20% or more of our common stock outstanding on the date of this prospectus supplement. If limited by this rule, we will make these payments in cash and not in shares of our common stock.

The notes may not be rated or may receive a lower rating than anticipated.

We do not intend to seek a rating on the notes. However, if one or more rating agencies rates the notes and assigns the notes a rating lower than the rating expected by investors, or reduces its rating in the future, the market price of the notes and our common stock could be reduced.

The notes are effectively subordinated to our secured debt and to all liabilities of our subsidiaries.

The notes will be effectively subordinated to our secured indebtedness to the extent of the value of the related collateral. None of our subsidiaries will guarantee our obligations under, or have any obligation to pay amounts due on, the notes. As a result, the notes will be structurally subordinated to all indebtedness and other liabilities, including trade payables and lease obligations, of our existing and future subsidiaries (unless such indebtedness is by its terms subordinated to the notes). In addition, the notes are not secured by any of our assets or those of our subsidiaries. As a result, the notes will be effectively subordinated to any secured debt that we or our subsidiaries incur. In the event of our bankruptcy, liquidation or reorganization or upon acceleration of the notes, payment on the notes could be less, ratably, than on any secured indebtedness. We may not have sufficient assets remaining to pay amounts due on any or all of the notes then outstanding.

Our management has broad discretion over the use of proceeds from this offering.

Our management has significant flexibility in applying the proceeds that we receive from this offering. Because the proceeds are not required to be allocated to any specific investment or transaction, you cannot determine the value or propriety of our management's application of the proceeds on our behalf. In addition, the proceeds of this offering may not generate a favorable return for us.

FORWARD-LOOKING STATEMENTS

Some of the statements contained in this prospectus supplement or incorporated by reference into this prospectus supplement are 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 are subject to the safe harbor created by the Securities Litigation Reform Act of 1995. We have based these forward-looking statements largely on our expectations and projections about future events and financial trends affecting the financial condition and/or operating results of our business. Words such as anticipates, expects, intends, plans, believes, seeks, estimates, the negative of these words, or similar expressions are intended to identify such forward-looking statements. These statements are not guarantees of future performance and are subject to certain risks, uncertainties and assumptions that are difficult to predict; therefore, actual results may differ materially from those expressed or forecasted in any forward-looking statements. The risks and uncertainties include those noted under the heading Risk Factors below, in the filings incorporated herein by reference and in the accompanying prospectus. There are important factors that could cause actual results to be substantially different from the results expressed or implied by these forward-looking statements including, among other things:

our ability to become profitable and attain positive cash flow;

our ability to successfully implement our cost reduction strategy and increase our production;

our ability to increase manufacturing production;

the impact of competition and technological change on our business;

the effect of market conditions on our long-term power purchase and service agreements with our customers;

our ability to successfully market and commercialize our Direct FuelCell® products and our other products and product candidates;

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our dependence on government research and development contracts and the effect that a negative government audit could have on our business;

our dependence on a limited number of third-party suppliers for our Direct FuelCell® products;

our dependence on our intellectual property and ability to protect our proprietary rights and operate our business without conflicting with the rights of others;

the effect that any intellectual property litigation or product liability claims may have on our business and operating and financial performance;

our ability to attract and retain key, qualified management and technical personnel;

the negative effect of the imposition of customer fees or interconnection requirements on our customers by utility companies;

the effect that environmental litigation or remediation requirements may have on our business and operating and financial performance;

our ability to satisfy the equity conditions and other conditions related to our additional sale option; and

other factors set forth above under **Risk Factors** and in the accompanying prospectus, as well as in all filings incorporated by reference into this prospectus supplement.

We do not intend to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. Past financial or operating performance is not necessarily a reliable indicator of future performance, and you should not use our historical performance to anticipate results or future period trends.

USE OF PROCEEDS

We estimate that the net proceeds to us from this offering, after deducting the underwriting discount related to the offering of the notes and estimated offering expenses payable by us, will be approximately \$35.6 million, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

We currently intend to use the net proceeds of this offering (including any resulting from the exercise of the additional sale option) for project financing, market development, and general corporate purposes. General corporate purposes may include capital expenditures, repayment of debt, payment of dividends and any other purposes. While we have estimated the particular uses for the net proceeds of this offering, we have not determined the amounts we plan to spend on any of the areas listed above or the timing of these expenditures. As a result, our management will have broad discretion to allocate the net proceeds from this offering for any purpose, and investors will be relying on the judgment of our management with regard to the use of these net proceeds. Pending use of the net proceeds as described above, we intend to invest the net proceeds in money-market funds or U.S. treasuries until we use them for their stated purpose.

Table of Contents**RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED DIVIDENDS**

The ratio of our earnings to fixed charges are set forth below for each of the periods indicated.

	Six Months Ended		Fiscal Year Ended October 31,			
	April 30, 2013 (1)	2012 (2)	2011 (2)	2010 (2)	2009 (2)	2008 (2)
Ratio of earnings to fixed charges and preference dividends	N/A	N/A	N/A	N/A	N/A	N/A

(1) For the six months ended April 30, 2013, our earnings were insufficient to cover fixed charges. The coverage deficiency was \$20.6 million.

(2) For the fiscal years ended October 31, 2012, 2011, 2010, 2009 and 2008, our earnings were insufficient to cover fixed charges. The coverage deficiencies were \$34.2 million, \$48.3 million, \$55.6 million, \$68.6 million and \$92.9 million, respectively.

For purposes of calculating the ratios of earnings to fixed charges, (i) fixed charges consist of interest on debt, amortization of discount on debt, capitalized interest, and preferred dividends and (ii) earnings consist of pre-tax income from operations and fixed charges (excluding capitalized interest) and include the amortization of capitalized interest.

CAPITALIZATION

The following table sets forth our combined cash and cash equivalents, total debt and owners' equity as of April 30, 2013 on an (i) actual basis, and (ii) as adjusted basis to reflect the sale of \$38 million aggregate principal amount of notes in this offering.

You should read this table in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations and our unaudited interim consolidated financial statements and the notes to those financial statements appearing in our Quarterly Report on Form 10-Q filed with the SEC for the period ended April 30, 2013, and the subsequently filed Quarterly Reports on Form 10-Q and Annual Reports on Form 10-K, which are incorporated by reference into this prospectus supplement.

	As of April 30, 2013	
	Actual (Dollars in thousands)	As Adjusted
Cash and cash equivalents	\$ 56,039	\$ 91,649
Long term debt, including the notes offered hereby (1)	\$ 6,844	\$ 44,844
Shareholders' equity:		
Common stock (par value \$0.0001 per share) (2)	19	19
Additional paid in capital (2)	753,477	753,477
Accumulated deficit	(755,876)	(755,876)
Accumulated other comprehensive income	87	87
Common stock held in treasury	(53)	(53)
Deferred compensation	53	53
Stockholders' equity	(2,293)	(2,293)
Total capitalization	\$ 46,902	\$ 44,512

(1) The convertible notes may include embedded derivatives that are required to be segregated. This would not affect the actual amount that we are required to repay. The amount shown in the table above for the notes is the aggregate principal amount of the notes and does not

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- reflect fees and expenses that we will be required to recognize.
- (2) Excludes (a) 3,221,539 shares of common stock issuable upon the exercise of stock options outstanding as of April 30, 2013, at a weighted average exercise price of \$6.47 per share; (b) 989,724 shares of common stock reserved for future awards under our long term incentive plans as of April 30, 2013, and (c) 666,365 shares of common stock reserved for issuance under the Section 423 Stock Purchase Plan.

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DIVIDEND POLICY

We have never declared or paid any cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings to finance the growth and development of our business and do not anticipate paying any cash dividends in the foreseeable future.

DESCRIPTION OF THE NOTES

The notes will be issued under an indenture dated as of June 25, 2013, between FuelCell Energy, Inc., as issuer, and US Bank National Association, as trustee, as supplemented by a supplemental indenture to be dated as of June 25, 2013, which together we refer to as the indenture.

The following description is only a summary of the material provisions of the notes and the indenture. We urge you to read the indenture in its entirety because it, and not this description, defines your rights as a holder of the notes. You may request copies of the indenture as set forth under the caption Where You Can Find Additional Information.

When we refer to we, our or us in this section, we refer only to FuelCell Energy, Inc. and not its subsidiaries.

Brief Description of the Notes

The notes will:

initially be issued in an aggregate principal amount of \$38 million;

bear interest at a rate of 8% per year, payable semi-annually in arrears, in shares of our common stock provided that we are listed on a U.S. national or regional securities exchange and we are not in an event of default under the supplemental indenture (the Equity Conditions), or, at our option, in cash on December 15 and June 15 of each year, commencing on December 15, 2013;

be general unsecured obligations, ranking equally with all of our other unsecured senior indebtedness, if any, and senior in right of payment to any subordinated indebtedness;

be convertible by you at any time on or prior to the business day preceding the maturity date as described under Conversion Rights into shares of our common stock initially based on a conversion rate of 645.1613 shares of our common stock per \$1,000 principal amount of notes, which represents an initial conversion price of approximately \$1.55 per share. In the event of certain types of fundamental changes, we will increase the conversion rate for a limited period of time;

be subject to repurchase by us, if a fundamental change occurs, at a cash repurchase price equal to 110% of the value of the notes as calculated on a variable basis as set forth under Repurchase Upon a Change of Control; and

mature on June 15, 2018, unless earlier converted or repurchased by us at your option.

Neither we nor any of our subsidiaries will be subject to any financial covenants under the indenture. Neither we nor any of our subsidiaries will be restricted under the indenture from paying dividends or issuing or repurchasing our securities. You are not afforded protection under the indenture in the event of a highly leveraged transaction or a change in control of us, except to the extent described below under Repurchase upon a Change of Control.

No sinking fund is provided for the notes and the notes will not be subject to defeasance.

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The notes initially will be issued in book-entry form only in denominations of \$1,000 principal amount and whole multiples thereof. Beneficial interests in the notes will be shown on, and transfers of beneficial interests in the notes will be effected only through, records

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maintained by The Depository Trust Company, or DTC, or its nominee, and any such interests may not be exchanged for certificated notes except in limited circumstances. For information regarding conversion, registration of transfer and exchange of global notes held in DTC, see Form, Denomination and Registration Global Notes, Book-Entry Form.

If certificated notes are issued, you may present them for conversion, registration of transfer and exchange, without service charge, at our office or agency in New York City, which will initially be the office or agency for service of process of the trustee in New York City.

Additional Notes

We may, without the consent of the holders of the notes, increase the principal amount of the notes by issuing additional notes in the future on the same terms and conditions, except for any differences in the issue price and interest accrued prior to the issue date of the additional notes; provided that such differences do not cause the additional notes to constitute a different class of securities than the notes for U.S. federal income tax purposes; and provided further that the additional notes have the same CUSIP number as the notes offered hereby. The notes offered by this prospectus supplement and the accompanying prospectus and any additional notes would rank equally and ratably and would be treated as a single class for all purposes under the indenture. No additional notes may be issued if any event of default has occurred and is continuing.

Payment at Maturity

On the maturity date, each holder will be entitled to receive on such date \$1,000 in cash for each \$1,000 in principal amount of notes, together with accrued and unpaid interest to, but not including, the maturity date. With respect to global notes, principal and interest will be paid to DTC in immediately available funds. With respect to any certificated notes, principal and interest will be payable at our office or agency in New York City, which initially will be the office or agency for service of process of the trustee.

Ranking

The notes will be senior unsecured obligations and will rank equal in right of payment with all of our future senior unsecured indebtedness. The notes will be effectively subordinated to our secured indebtedness to the extent of the value of the related collateral, any senior secured indebtedness that we may incur in the future, and structurally subordinated to senior secured indebtedness and other liabilities of our subsidiaries.

As of April 30, 2013, we and our subsidiaries had \$11.3 million of indebtedness outstanding, and approximately \$138.9 million of other liabilities outstanding. All the indebtedness outstanding was secured and no indebtedness was at the subsidiary level.

Interest

The notes will bear interest at a rate of 8% per annum. Interest will accrue from June 25, 2013 or from the most recent date to which interest has been paid or duly provided for. We will pay interest semi-annually, in arrears, in shares of our common stock, provided that the Equity Conditions are met, or at our option cash on June 15 and December 15 of each year, commencing on December 15, 2013, to holders of record at 5:00 p.m., New York City time, on the preceding May 31 and November 30, respectively (each, an Interest Date). Upon the occurrence of any event of default, until all such events of default have been cured, the notes will bear a default interest rate of 12% per annum.

To the extent that we pay interest in cash, we will pay interest on:

global notes to DTC in immediately available funds;

any certificated notes having a principal amount of less than \$2,000,000, by check mailed to the holders of those notes; provided, however, at maturity, interest will be payable as described under Payment at Maturity; and

any certificated notes having a principal amount of \$2,000,000 or more, by wire transfer in immediately available funds at the election of the holders of those notes duly delivered to the trustee at least five business days prior to the relevant interest

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payment date or by check if no such election is made; provided, however, at maturity, interest will be payable as described under Payment at Maturity.

To the extent that we pay interest in shares of our common stock, the number of shares (the Dividend Shares) will be based upon a price equal to a 7.5% discount to the average VWAP for our common stock for the ten Trading Days prior to the applicable Interest Date. On or before the eleventh (11th) Trading Day before the applicable Interest Date, we shall notify the holders of the notes whether we will pay interest in Dividend Shares or if we have elected to pay in cash; provided that, if no such notice is given, then we shall be deemed to have certified that the Equity Conditions are met and that we intend to pay such interest in Dividend Shares. On or before the third (3rd) Trading Day following the Interest Date, we shall (X) provided that our transfer agent is participating in The Depository Trust Company (DTC) Fast Automated Securities Transfer Program, credit the number of Dividend Shares to which each holder is entitled to such holder s or its designee s balance account with DTC through its Deposit/Withdrawal at Custodian system, or (Y) if the transfer agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to each holder, a certificate, registered in our share register in the name of such holder or its designee, for the number of Dividend Shares to which such holder is entitled pursuant to such exercise. Each holder entitled to receive interest in Dividend Shares on an Interest Date shall be treated for all purposes as the record holder of such shares of our common stock on the applicable Interest Date, irrespective of the date such Dividend Shares are credited to the holder s DTC account or the date of delivery of the certificates evidencing such Dividend Shares, as the case may be. No fractional shares of our common stock are to be issued upon the issuance of Dividend Shares, but rather the number Dividend Shares to be issued shall be rounded up to the nearest whole number. The Company shall pay any and all taxes which may be payable with respect to the issuance and delivery of Dividend Shares.

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Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months. If a payment date is not a business day, payment will be made on the next succeeding business day, and no additional interest will accrue thereon.

Definitions

Trading Day means any day on which our common stock is traded on the Nasdaq Global Market, or, if the Nasdaq Global Market is not the principal trading market for our common stock, then on the principal securities exchange or securities market on which our common stock is then traded; provided that **Trading Day** shall not include any day on which our common stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that our common stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York time).

VWAP means the dollar volume-weighted average price for our common stock on the Nasdaq Global Market (or a successor market) during the period beginning at 9:30:01 a.m., New York time (or such other time as the Trading Market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York time (or such other time as the Trading Market publicly announces is the official close of trading), as reported by Bloomberg, L.P. through its **Volume at Price** function or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York time (or such other time as the Trading Market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York City Time (or such other time as the Trading Market publicly announces is the official close of trading), as reported by Bloomberg, L.P., or, if no dollar volume-weighted average price is reported for such security by Bloomberg, L.P. for such hours, the average of the highest closing bid price and the lowest closing ask price of any of the market makers for such security as reported in the **pink sheets** by OTC Markets Group Inc. (formerly Pink Sheets LLC). If the VWAP cannot be calculated for the Common Stock on a particular date on any of the foregoing bases, the VWAP of the Common Stock shall be the fair market value of the Common Stock on such date as determined by our Board of Directors in good faith.

Conversion Rights

General

Holders may convert their notes into shares of our common stock at any time prior to the close of business on the business day immediately preceding the maturity date based on an initial conversion rate of 645.1613 shares of common stock per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$1.55 per share), unless earlier repurchased by us, at your option, as set forth under

Repurchase at the Option of the Holder upon a Fundamental Change. The conversion rate will be subject to adjustment as described below.

Except as provided in the next two paragraphs, upon conversion, you will not receive any separate cash payment of accrued and unpaid interest on the notes being converted. We will not issue fractional shares of our common stock upon conversion of the notes, but rather the number shares of common stock to be issued shall be rounded up to the nearest whole number. Accrued tax original issue discount, if any, will be deemed to be paid in full with the shares of our common stock issued upon conversion, rather than cancelled, extinguished or forfeited. Any accrued and unpaid interest and any applicable make-whole amount shall be paid in shares of our common stock or, at our option, in cash as set forth under **Interest and Make-Whole Payments.**

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Except as described under **Conversion Rate Adjustments**, we will not make any payment or other adjustment for dividends on any common stock issuable upon conversion of the notes.

Conversion Procedures

If you hold a beneficial interest in a global note, to convert you must deliver to DTC the appropriate instruction form for conversion pursuant to DTC's conversion program.

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

complete and manually sign the conversion notice on the back of the notes or a facsimile of the conversion notice;

deliver the completed conversion notice and the notes to be converted to the conversion agent; and

if required, furnish appropriate endorsements and transfer documents.

The conversion date will be the date on which you have satisfied all of the foregoing requirements. The notes will be deemed to have been converted immediately prior to 5:00 p.m., New York City time, on the conversion date. Once delivered, a conversion notice shall be irrevocable.

You will not be required to pay any taxes or duties relating to the issuance or delivery of our common stock if you exercise your conversion rights.

Settlement of a conversion of notes into shares of our common stock will occur on the third trading day following the applicable conversion date. We will treat the persons entitled to receive the shares of our common stock issuable upon a conversion of any note for all purposes as the record holder or holders of such shares of our common stock on the applicable conversion date, irrespective of the date such shares of our common stock are credited to the holder's DTC account or the date of delivery of the certificates evidencing such shares of our common stock, as the case may be.

Conversion Rate Adjustments

We will adjust the conversion rate for certain events, including:

- (1) issuances of shares of our common stock as a dividend or distribution on our common stock;
- (2) certain subdivisions, combinations or reclassifications of our common stock;

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- (3) the cash portion of any dividends or other distributions to all or substantially all holders of our common stock, in which event the conversion rate will be adjusted by multiplying the conversion rate by a fraction,

the numerator of which will be the current market price of our common stock, and

the denominator of which will be the current market price of our common stock minus the amount per share of such dividend or distribution;

- (4) purchases of our common stock pursuant to a tender offer or exchange offer made by us or any of our subsidiaries to the extent that the cash and value of any other consideration included in the payment per share of common stock exceeds the closing sale price per share of our common stock on the trading day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer; and

- (5) any other distributions to all or substantially all holders of our common stock, of shares of our capital stock (other than our common stock), evidences of our indebtedness or assets, including securities.

For purposes of clause (3) above, current market price means the average closing sale price of our common stock for the 10 consecutive trading day period ending at the close of business of the trading day immediately prior to the ex-dividend date for the distribution requiring such computation.

The closing sale price of a share of our common stock on any trading day means the closing sale price of such security (or if no closing sale price is reported, the average of the closing bid and closing ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such day as reported in composite transactions for the principal U.S. securities exchange (or if not so listed, on the principal regional securities exchange) on which our common stock is traded or, if our common stock is not listed on a U.S. national or regional securities exchange, as reported by OTC Markets Group Inc. (formerly Pink Sheets LLC) or its successor entity. In the absence of such a quotation, the closing sale price will be determined by an independent nationally recognized securities dealer retained by us and reasonably acceptable to the trustee for that purpose. The closing sale price will be determined without reference to extended or after hours trading. The conversion price on any day will equal \$1,000 divided by the conversion rate in effect on that day.

To the extent that any rights plan adopted by us is in effect upon conversion of the notes into common stock, you will receive, in addition to the common stock, the rights under the applicable rights agreement unless the rights have separated from our common stock at the time of conversion of the notes, in which case, the conversion rate will be adjusted as if we distributed to all holders of our common stock shares of our capital stock, evidences of indebtedness or assets as described above in clause (5).

In cases where the fair market value of assets, debt securities or certain rights, warrants or options to purchase our securities, applicable to one share of common stock, distributed to stockholders:

equals or exceeds the average closing price of the common stock over the 10 consecutive trading day period ending on the record date for such distribution; or

such average closing price exceeds the fair market value of such assets, debt securities or rights, warrants or options so distributed by less than \$0.10,

rather than being entitled to an adjustment in the conversion price, the holder of a note will be entitled to receive upon conversion, in addition to the shares of common stock, the kind and amount of assets, debt securities or rights, warrants or options comprising the distribution that such holder would have received if such holder had converted such notes immediately prior to the record date for determining the stockholders entitled to receive the distribution.

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

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In the event that we distribute shares of capital stock of a subsidiary of ours pursuant to clause (4) above, the conversion rate will be adjusted, if at all, based on the market value of the subsidiary stock so distributed relative to the market value of our common stock, in each case over a measurement period following the distribution.

If we:

reclassify or change our common stock (other than changes resulting from a subdivision or combination); or

consolidate or merge with or into any person or sell, lease, transfer, convey or otherwise dispose of all or substantially all of our assets and those of our subsidiaries taken as a whole to another person,

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and the holders of our common stock receive stock, other securities or other property or assets (including cash or any combination thereof) with respect to or in exchange for their common stock, then each outstanding note will, without the consent of any holders of the notes, become convertible only into the consideration the holders of the notes would have received if they had converted their notes based on the applicable conversion rate immediately prior to such reclassification, change, consolidation, merger, sale, lease, transfer, conveyance or other disposition (assuming such holder of common stock received proportionately the same consideration received by all common stock holders in the aggregate). In the event holders of our common stock have the opportunity to elect the form of consideration to be received in such transaction, then from and after the effective date of such transaction, the notes shall be convertible into the consideration that a majority of the holders of our common stock who made such an election received in such transaction. We may not become a party to any such transaction unless its terms are consistent with the foregoing.

If a taxable distribution to holders of our common stock or other transaction occurs that results in any adjustment of the conversion rate (including an adjustment at our option), you may, in certain circumstances, be deemed to have received a distribution subject to U.S. income tax as a dividend. In certain other circumstances, the absence of an adjustment may result in a taxable dividend to the holders of our common stock. See Material United States Federal Income Tax Considerations.

We will not be required to make any adjustment in the conversion rate unless the adjustment would require a change of at least 1% in the conversion rate. However, we will carry forward any adjustment that is less than 1% of the conversion rate, take such carried-forward adjustments into account in any subsequent adjustment, and make such carried forward adjustments, regardless of whether the aggregate adjustment is less than 1%, (a) annually on the anniversary of the first date of issue of the notes and otherwise (b) (1) five business days prior to the maturity of the notes (whether at stated maturity or otherwise) or (2) prior to the repurchase date, unless such adjustment has already been made.

If we adjust the conversion rate pursuant to the above provisions, we will issue a press release through Business Wire or PR Newswire containing the relevant information and make this information available on our website or through another public medium as we may use at that time. Unless and until the trustee shall receive written notice setting forth an adjustment of the conversion rate, the trustee may assume without inquiry that the conversion rate has not been adjusted and that the last conversion rate of which it has knowledge remains in effect.

Conversion Limitations

Notwithstanding the foregoing, any holder of a note shall not have the right to convert the note and will not be able to pay interest on the notes in shares of common stock to the extent that, after giving effect to such conversion or interest payment, such holder (together with the holder's affiliates) would beneficially own in excess of 4.99% of the number of shares of our common stock outstanding immediately after giving effect to such conversion or interest payment.

We shall not be obligated to issue shares of our common stock upon conversion of the notes and will not be able to pay interest on the notes in shares of common stock to the extent the issuance of such shares of common stock would exceed, in the aggregate, 19.9% of our outstanding common stock on the date of this prospectus supplement (including shares of common stock issued as interest on the notes and upon conversion of the notes), unless we obtain the prior approval of our stockholders (the Exchange Cap). We will settle our conversion and interest obligations, if any, in excess of this limitation in cash.

Interest and Make Whole Payment.

If you elect to convert some or all of your notes at your option prior to June 15, 2018, in addition to the consideration issuable upon conversion you will receive a number of additional shares of our common stock (the Voluntary Conversion Make Whole Payment) for the notes being converted or, at our option, cash. The Voluntary Conversion Make Whole Payment will be a number of shares of our common stock or cash equal to the remaining unpaid interest on such portion of such converted notes, up to a maximum of \$240.00 per \$1,000 principal amount of notes plus any accrued and unpaid interest to such date (Voluntary Conversion) (collectively, the Make Whole Payment Amount). If the Company pays the Make Whole Amount in shares, the shares will be valued at a 7.5% discount to the average VWAP for our common stock for the ten Trading Days ending on and including the Trading Day immediately preceding the date of conversion, subject to the 4.99% and 19.9% limitations described above.

Approximate Number of Shares of Common Stock Issuable under the Notes

The number of shares of our common stock issuable under the notes depends, in part, on the market price of our shares of common stock. Assuming that all interest payments are made in the form of shares of our common stock, we will issue the following number of shares of our common stock prior to maturity of the notes to pay such interest:

Assuming a current market price of \$1.00, 16,432,432 shares of our common stock;
Assuming a current market price of \$1.50, 10,954,955 shares of our common stock;
Assuming a current market price of \$3.00, 5,477,477 shares of our common stock; and
Assuming a current market price of \$5.00, 3,286,486 shares of our common stock.

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Repurchase upon a Change of Control

In the event of transactions involving a change of control, we will offer to redeem the notes (including all accrued and unpaid interest thereon) at a price equal to the greater of (i) 110% of the amount being redeemed, (ii) the product of (m) 110% of the amount being redeemed multiplied by (n) the quotient of (A) the highest closing sale price of our common stock during the period beginning on the date immediately before the earlier to occur of (q) the completion of the change of control and (r) the public announcement of the change of control and ending on the trading day immediately before the trading day on which we pay the redemption price divided by (B) the conversion price then in effect immediately before the earlier to occur of (s) the completion of the change of control and (t) the public announcement of the change of control and ending on the trading day immediately before the trading day on which we pay the redemption price, or (iii) the product of (x) 110% of the amount being redeemed multiplied by (y) the quotient of (M) the aggregate cash consideration and the aggregate cash value of any non-cash consideration per share of our common stock to be paid to the holders of the shares of common stock upon the completion of the change of control divided by (N) the conversion price then in effect. If a purchaser of FuelCell does not assume all of the obligations of the notes, you will be obligated to sell, and we will be obligated to buy, the notes at such price.

Events of Default; Notice and Waiver

The following will be events of default under the indenture:

we fail to pay any interest on the notes when due and such failure continues for a period of 30 calendar days;

we fail to pay principal of the notes when due at maturity, or we fail to pay the redemption price or repurchase price, or any make whole premium payable, in respect of any notes when due;

we fail to deliver shares of our common stock (including any additional shares payable as a result of a make whole premium) upon the conversion of any notes and such failure continues for five days following the scheduled settlement date for such conversion;

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we fail to provide for a period of five business days after it is required in the indenture, notice of the anticipated effective date or actual effective date of a fundamental change;

we fail to perform or observe any other term, covenant or agreement in the notes or the indenture for a period of 60 calendar days after written notice of such failure is given to us by the trustee or to us and the trustee by the holders of at least 25% in aggregate principal amount of the notes then outstanding;

a failure to pay when due (whether at stated maturity or otherwise) or a default that results in the acceleration of maturity of, any of our or any of our significant subsidiaries (which term shall have the meaning specified in Rule 1-02(w) of Regulation S-X) indebtedness for borrowed money in excess of \$25 million, unless such indebtedness is discharged, or such acceleration is rescinded, stayed or annulled, within a period of 30 calendar days after written notice of such failure is given to us by the trustee or to us and the trustee by the holders of at least 25% in aggregate principal amount of the notes then outstanding; or

certain events involving our bankruptcy, insolvency or reorganization or the bankruptcy, insolvency or reorganization of any of our significant subsidiaries (which term shall have the meaning specified in Rule 1-02(w) of Regulation S-X).

We are required to notify the trustee promptly upon becoming aware of the occurrence of any default under the indenture known to us. The trustee is then required within 90 calendar days of becoming aware of the occurrence of any default to give to the registered holders of the notes notice of all uncured defaults known to it. However, the trustee may withhold notice to the holders of the notes of any default, except defaults in payment of principal or interest on the notes, if the trustee, in good faith, determines that the withholding of such notice is in the interests of the holders. We are also required to deliver to the trustee, on or before a date not more than 120 calendar days after the end of each fiscal year, a written statement as to compliance with the indenture, including whether or not any default has occurred.

If an event of default specified in the last bullet point listed above occurs and continues with respect to us or any of our significant subsidiaries, the principal amount of the notes and accrued and unpaid interest on the outstanding notes will automatically become due and payable. If any other event of default occurs and is continuing, the trustee or the holders of at least 25% in aggregate principal amount of the outstanding notes may declare the principal amount of the notes and accrued and unpaid interest on the outstanding notes to be due and payable. Thereupon, the trustee may, in its discretion, proceed to protect and enforce the rights of the holders of the notes by appropriate judicial proceedings.

After a declaration of acceleration, but before a judgment or decree for payment of the money due has been obtained by the trustee, the holders of a majority in aggregate principal amount of the notes outstanding, by written notice to us and the trustee, may rescind and annul such declaration if:

we have paid (or deposited with the trustee a sum sufficient to pay) (1) all overdue interest on all notes; (2) the principal amount of any notes that have become due otherwise than by such declaration of acceleration; (3) to the extent that payment of such interest is lawful, interest upon overdue interest; and (4) all sums paid or advanced by the trustee under the indenture and the reasonable compensation, expenses, disbursements and advances of the trustee, its agents and counsel; and

all events of default, other than the non-payment of the principal amount and any accrued and unpaid interest that have become due solely by such declaration of acceleration, have been cured or waived.

The holders of a majority in aggregate principal amount of the outstanding notes will have the right to direct the time, method and place of any proceedings for any remedy available to the trustee, subject to limitations specified in the indenture.

No holder of the notes may pursue any remedy under the indenture, except in the case of a default in the payment of principal or interest (including interest make-whole payments) on the notes, unless:

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the holder has given the trustee written notice of an event of default;

the holders of at least 25% in aggregate principal amount of the outstanding notes make a written request to the trustee to pursue the remedy, and offer security or indemnity reasonably satisfactory to the trustee against any costs, liability or expense of the trustee;

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the trustee fails to comply with the request within 60 calendar days after receipt of the request and offer of indemnity; and

the trustee does not receive an inconsistent direction from the holders of a majority in aggregate principal amount of the outstanding notes.

Waiver

The holders of a majority in aggregate principal amount of the notes outstanding may, on behalf of the holders of all the notes, waive any past default or event of default under the indenture and its consequences, except:

our failure to pay principal or interest or other amount on any notes when due;

our failure to convert any notes into shares of common stock, and pay the interest make-whole, if any, upon such conversion, as required by the indenture;