

The information in this preliminary prospectus supplement is not complete and may be changed. This preliminary prospectus supplement and the accompanying prospectus are not an offer to sell these securities nor a solicitation of an offer to buy these securities in any jurisdiction where the offer and sale is not permitted.

Subject to Completion  
 Preliminary Prospectus Supplement dated January 17, 2023

**PROSPECTUS SUPPLEMENT**  
 (To Prospectus dated January 13, 2022)

**Up to [●] Shares of Common Stock**  
**Pre-Funded Warrants to Purchase up to [●] Shares of Common Stock**  
**Common Warrants to Purchase up to [●] Shares of Common Stock**  
**Up to [●] Shares of Common Stock underlying such Pre-Funded Warrants and Common Warrants**



We are offering on a “reasonable best efforts” basis up to [●] shares of our common stock, no par value per share (“Common Stock”), pre-funded warrants (“Pre-Funded Warrants”) to purchase up to [●] shares of our Common Stock, and warrants (“Common Warrants” and, collectively with the Pre-Funded Warrants, “Warrants”) to purchase up to [●] shares of our Common Stock. Each share of Common Stock will be sold together with a Common Warrant. Each Common Warrant is exercisable for one share of Common Stock. The Common Warrants will have an initial exercise price of \$[●] per share and will be exercisable immediately and will expire on the fifth anniversary of the date on which the Common Warrants become exercisable. Each share of Common Stock and accompanying Common Warrant will be sold at a negotiated price of \$[●] and will be issued pursuant to this prospectus supplement, the accompanying prospectus and a securities purchase agreement. The shares of Common Stock and Common Warrants are immediately separable and will be issued separately. The Pre-Funded Warrants and accompanying Common Warrants are identical to the shares of Common Stock and accompanying Common Warrants, except that each Pre-Funded Warrant is immediately exercisable for one share of Common Stock at an exercise price of \$[0.0001], the purchase price for a Pre-Funded Warrant and accompanying Common Warrants is \$[●], and the Pre-Funded Warrants do not expire until exercised and are valid until exercised in full.

Our Common Stock is listed on the Nasdaq Global Market (“Nasdaq”) under the symbol “FUV”. On January [●], 2023, the closing sale price of our Common Stock was \$[●] per share. There is no established public trading market for the Warrants, and we do not expect a market to develop. Without an active trading market, the liquidity of the Warrants will be limited. In addition, we do not intend to apply for a listing of the Warrants on any national securities exchange or other nationally recognized trading system.

Investing in any of our securities involves a high degree of risk. See the “Risk Factors” section beginning on page S-3 of this prospectus supplement and page 2 of the accompanying prospectus, as well as our other filings that are incorporated by reference into this prospectus supplement and the accompanying prospectus.

Neither the Securities and Exchange Commission (the “SEC”) nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus supplement or the accompanying prospectus. Any representation to the contrary is a criminal offense.

We have engaged A.G.P./Alliance Global Partners LLC to act as our exclusive placement agent (“A.G.P.” or the “Placement Agent”) in connection with the securities offered by this prospectus supplement. The Placement Agent has no obligation to buy any of the securities from us or to arrange for the purchase or sale of any specific number or dollar amount of securities but has agreed to use its best efforts to sell the securities offered by this prospectus supplement. We have agreed to pay the Placement Agent a fee based on the aggregate proceeds raised in this offering as set forth in the table below:

	Per Share and Accompanying Warrant	Per Pre- Funded Warrant and Accompanying Warrant	Total
Offering price	\$ [●]	\$ [●]	\$ [●]
Placement Agent fees <sup>(1)</sup>	\$ [●]	\$ [●]	\$ [●]
Proceeds, before expenses, to us <sup>(2)</sup>	\$ [●]	\$ [●]	\$ [●]

(1) We have agreed to pay the Placement Agent a cash placement commission equal to 7% of the aggregate proceeds from the sale of the Shares and Pre-Funded Warrants sold in this offering. We have also agreed to reimburse the Placement Agent for certain expenses incurred in connection with this offering. See “Plan of Distribution” beginning on page S-13 for additional information regarding the compensation to be paid to the Placement Agent.

(2) The amount of the offering proceeds to us presented in this table does not give effect to any exercise of the Pre-Funded Warrants or Common Warrants being issued in this offering.

Delivery of the securities being offered pursuant to this prospectus supplement and the accompanying prospectus is expected to be made on or about January [●], 2023, subject to the satisfaction of certain closing conditions.

*Sole Placement Agent*

**A.G.P.**

This prospectus supplement is dated January [●], 2023

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### ABOUT THIS PROSPECTUS SUPPLEMENT

This prospectus supplement and the accompanying prospectus are part of a “shelf” registration statement on Form S-3 that we filed with the Securities and Exchange Commission (the “SEC”) using a “shelf” registration process.

This document contains two parts. The first part consists of this prospectus supplement, which provides you with specific information about this offering. The second part, the accompanying prospectus, provides more general information, some of which may not apply to this offering. Generally, when we refer only to the “prospectus,” we are referring to both parts, combined. This prospectus supplement may add, update or change information contained in the accompanying prospectus. To the extent that any statement we make in this prospectus supplement is inconsistent with statements made in the accompanying prospectus or any documents incorporated by reference herein or therein that we filed with the SEC before the date of this prospectus supplement, the statements made in this prospectus supplement will be deemed to modify or supersede those made in the accompanying prospectus and such documents incorporated by reference herein and therein. You should read this prospectus supplement and the accompanying prospectus, including the information incorporated by reference herein and therein.

You should rely only on the information that we have included or incorporated by reference in this prospectus supplement, the accompanying prospectus and in any free writing prospectus we may authorize to be delivered or made available to you. We have not, and the Placement Agent has not, authorized anyone to give any information or to make any representation other than those contained or incorporated by reference in this prospectus supplement, the accompanying prospectus or any free writing prospectus we may authorize to be delivered or made available to you. You must not rely upon any information or representation not contained or incorporated by reference in this prospectus supplement or the accompanying prospectus. This prospectus supplement and the accompanying prospectus do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the registered securities to which they relate, nor does this prospectus supplement or the accompanying prospectus constitute an offer to sell or the

solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

You should not assume that the information contained in this prospectus supplement or the accompanying prospectus is accurate on any date subsequent to the date set forth on the front of the document or that any information we have incorporated by reference herein or therein is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus supplement or accompanying prospectus is delivered, or securities are sold, on a later date.

This prospectus supplement contains or incorporates by reference summaries of certain provisions contained in some of the documents described herein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by the actual documents. Copies of some of the documents referred to herein have been or will be filed or have been or will be incorporated by reference as exhibits to the registration statement of which this prospectus supplement forms apart, and you may obtain copies of those documents as described in this prospectus supplement under the heading “Where You Can Find More Information.”

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

Unless otherwise stated in this prospectus, or the context otherwise requires, references to the “Company,” “we,” “us,” “our” or “Arcimoto” refer specifically to Arcimoto, Inc. and its consolidated subsidiaries. When we refer to “you,” we mean the potential holders of our securities. Capitalized terms used, but not defined, in this prospectus supplement are defined in the accompanying prospectus.

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## PROSPECTUS SUPPLEMENT SUMMARY

*This summary highlights information contained in other parts of this prospectus supplement. Because it is only a summary, it does not contain all of the information that you should consider before investing in shares of our Common Stock and Warrants, and it is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere in this prospectus supplement, the accompanying prospectus, and the documents incorporated by reference in this prospectus supplement and the accompanying prospectus. You should read all such documents carefully, and you should pay special attention to the information contained under the caption entitled “Risk Factors” in this prospectus supplement, the accompanying prospectus, in our most recent Annual Report on Form 10-K, in any subsequent Quarterly Reports on Form 10-Q and in our other reports filed from time to time with the SEC, which are incorporated by reference into this prospectus supplement and the accompanying prospectus, before deciding to buy our securities.*

### Overview

Arcimoto, Inc. (the “Company”, “We”, “Us”, or “Our”) was incorporated in the State of Oregon on November 21, 2007, with the mission to catalyze the shift to a sustainable transportation system. We build light, electric, ultra-efficient vehicles that are incredibly fun to drive for a reason. Put simply, our vision is an untouched planet and more livable cities.

Today’s city is dominated by the traditional four-wheeled vehicle. We pave almost half our urban land for these giant, multi-ton, extractive machines that we almost always drive alone or with just one other person and leave parked and rusting for most of their useful lives.

At Arcimoto, we believe that if we rightsize, electrify, and better utilize our vehicles, we can reclaim our shared space, help clean our skies, and make cities more livable for us all.

We have developed a new, human-scale three-wheeled electric vehicle platform, featuring dual-motor front wheel drive, a battery pack sized to meet the range needs of the vast majority of typical trips, and an optimized center of gravity for a nimble, balanced driving experience. On this platform, we currently manufacture a family of products targeting a wide range of everyday uses: the Fun Utility Vehicle® (“FUV®”), for daily driving, rideshare and rental, the Deliverator for last-mile delivery of essential food and goods, the Rapid Responder® for emergency services and security, the Flatbed for general fleet utility, and the Roadster, a pure fun machine that drives like nothing else on the road.

The following table depicts our production, deployment and sales by quarter:

	<u>Q3 2019</u>	<u>Q4 2019</u>	<u>Q1 2020</u>	<u>Q2 2020</u>	<u>Q3 2020</u>	<u>Q4 2020</u>	<u>Q1 2021</u>	<u>Q2 2021</u>	<u>Q3 2021</u>	<u>Q4 2021</u>	<u>Q1 2022</u>	<u>Q2 2022</u>	<u>Q3 2022</u>	<u>Overall</u>
Finished Good Inventory	0	8	20	12	10	9	23	61	45	35	18	55	74	
Deployed into rental	0	0	0	0	0	0	7	12	15	25	19	20	46	144
Deployed into fixed assets	0	2	1	7	0	11	7	4	15	28	0	4	11	90
Sales	2	44	27	11	31	28	60	31	64	37	24	41	74	474
Production	2	54	40	10	29	38	88	85	78	80	26	102	150	782

The Company’s primary focus is on volume production planning in order to push to sustainable profitability. On April 19, 2021, the Company purchased an approximately 220,000 square foot facility to expand production capabilities. The Company has continued to execute its growth strategy while securing additional financing.

### Corporate Information

Our principal executive offices are located at 2034 West 2nd Avenue, Eugene, Oregon 97402, and our telephone number is (541) 683-6293. Our website address is www.arcimoto.com. The information located on, or accessible from, our website is not, and shall not be deemed to be, a part of this prospectus or any accompanying prospectus supplement or incorporated into any other filings that we make with the SEC.

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## The Offering

Common Stock offered by us	[●] shares of Common Stock
Common Stock to be outstanding immediately after this offering	Up to [●] shares of Common Stock
Pre-Funded Warrants	We are offering Pre-Funded Warrants to purchase up to [●] shares of Common Stock in lieu of shares of Common Stock to a purchaser whose purchase of Shares in this offering would otherwise result in such purchaser, together with its affiliates and certain related parties, beneficially owning more than 4.99% (or, at the purchaser's election, 9.99%) of our outstanding Common Stock immediately following the consummation of this offering. Each Pre-Funded Warrant is exercisable for one share of our Common Stock. The purchase price of each Pre-Funded Warrant is equal to the combined price at which the share of Common Stock and accompanying Common Warrants is being sold to the public, minus \$[0.0001] per share. The Pre-Funded Warrants are exercisable immediately, at an exercise price of \$[0.0001] per share, and may be exercised at any time until all of the Pre-Funded Warrants are exercised in full. For each Pre-Funded Warrant we sell, the number of shares of Common Stock we are offering will be decreased on a one-for-one basis. This offering also relates to the shares of Common Stock issuable upon exercise of the Pre-Funded Warrants sold in this offering.
Common Warrants	We are also offering Common Warrants to purchase an aggregate of [●] shares of our Common Stock. The shares of Common Stock and Pre-Funded Warrants are being sold together with the Common Warrants. Each Common Warrant has an exercise price per share of \$[●] and will be exercisable immediately and will expire on the fifth anniversary of the date on which the Common Warrants become exercisable. This offering also relates to the offering of the shares of Common Stock issuable upon exercise of the Common Warrants.
Best Efforts	We have agreed to issue and sell the securities offered hereby to the purchasers through the Placement Agent, and the Placement Agent has agreed to offer and sell such securities on a "reasonable best efforts" basis. The Placement Agent is not required to sell any specific number or dollar amount of the securities offered hereby, but will use its reasonable best efforts to sell such securities. See the section entitled "Plan of Distribution" on page S-[●] of this prospectus supplement.
Use of Proceeds	We currently intend to use the net proceeds from the sale of our securities under this prospectus for [working capital and general corporate purposes]. See the section entitled "Use of Proceeds" on page S-8 of this prospectus supplement.
Risk Factors	Investing in our Common Stock involves a high degree of risk. See the "Risk Factors" section on page S-3 of this prospectus supplement and other information included or incorporated by reference into this prospectus supplement for a discussion of factors you should carefully consider before deciding to invest in our Common Stock.
Nasdaq symbol	Our Common Stock is listed on Nasdaq under the symbol "FUV."

The number of shares of our Common Stock to be outstanding after this offering is based on [●] shares of our Common Stock outstanding as of January [●], 2023, and excludes, as of such date:

- [●] shares of our Common Stock issuable upon the exercise of options outstanding and deferred equity stock units under our 2018 Omnibus Stock Incentive Plan, at a weighted average exercise price of \$[●] per share;
- [●] shares of our Common Stock issuable upon the exercise of options outstanding under our 2015 Stock Incentive Plan, at a weighted average exercise price of \$[●] per share;
- [●] shares of Common Stock issuable upon the exercise of warrants under our Amended and Restated 2012 Employee Stock Benefit Plan, at a weighted average exercise price of \$[●] per share;
- [●] shares of our Common Stock reserved for future issuance under our 2022 Omnibus Stock Incentive Plan;
- [●] shares of Common Stock issuable upon the conversion of outstanding convertible notes; and
- the shares of Common Stock issuable upon exercise of the Pre-Funded Warrants and Common Warrants.

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## RISK FACTORS

*An investment in our securities involves a high degree of risk. Before deciding whether to invest in our securities, you should carefully consider the risks and uncertainties described below, in the accompanying prospectus, and any documents incorporated by reference herein and therein. You should also consider the risks, uncertainties and assumptions discussed under the heading "Risk Factors" included in our most recent Annual Report on Form 10-K, as revised or supplemented by our most recent Quarterly Report on Form 10-Q, each of which are on file with the SEC and are incorporated herein by reference, and which may be amended, supplemented or superseded from time to time by other reports we file with the SEC in the future. There may be other unknown or unpredictable economic, business, competitive, regulatory or other factors that could have material adverse effects on our future results. Our business, business prospects, financial condition or operating results could be harmed by any of these risks, as well as other risks not currently known to us or that we currently consider immaterial. This could cause the trading price of our Common Stock to decline, resulting in a loss of all or part of your investment.*

### Risks Related to This Offering

#### ***We may not be able to obtain adequate financing to continue our operations.***

The design, manufacture, sale and servicing of vehicles is a capital-intensive business. We have previously raised funds through equity investment and convertible and non-convertible notes to meet our cash needs, but there is no guarantee that we will be able to raise enough additional capital in the short term to meet our ongoing cash requirements. Our need to raise additional funds to sustain operations and reach our vehicle production goals is dependent on how quickly we can secure financing and reduce the cost of our vehicles. We may raise additional funds through the issuance of equity, equity-related, or debt securities or through obtaining credit from government or financial institutions. We cannot assure anyone that we will be able to raise additional funds when needed. We cannot be certain that additional funds will be available to us on favorable terms when required, or at all. If we cannot raise additional funds when we need them, we will be unable to continue operations.

We have halted our production of vehicles and will require substantial additional funding to resume production, which may not be available to us on acceptable terms, or at all, and, if not so available, we will be required to cease our operations and/or seek bankruptcy protection.

***Our stock price may be volatile or may decline regardless of our operating performance, and you may not be able to resell your shares at or above the price at which you purchase it.***

The stock market generally, and our stock in particular, has experienced price and volume fluctuations. As a result of this volatility, you might not be able to sell your common stock at or above the price at which you purchase it. The market price for our common stock might continue to fluctuate significantly in response to various factors, some of which are beyond our control. These factors include:

- changes to the electric car industry, including demand and regulations;
- our ability to compete successfully against current and future competitors;
- competitive pricing pressures;
- our ability to obtain working capital financing;
- additions or departures of key personnel;
- sales of our common stock;
- our ability to execute our growth strategy;
- operating results that fall below expectations;
- loss of any strategic relationship;
- regulatory developments; and
- economic and other external factors.

In addition, the stock market in general has experienced significant price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of particular companies. These fluctuations might be even more pronounced in the new trading market for our stock. Additionally, securities class action litigation has often been instituted against companies following periods of volatility in the overall market and in the market price of a company's securities. This litigation, if instituted against us, could result in substantial costs, divert our management's attention and resources, and harm our business, operating results, and financial condition.

***You will experience immediate and substantial dilution in the net tangible book value per share of the Common Stock you purchase. You may also experience future dilution as a result of future equity offerings.***

The price per share, together with the number of shares of our Common Stock we propose to issue and ultimately will issue if this offering is completed, may result in an immediate decrease in the market price of our Common Stock. Our historical net tangible book value as of September 30, 2022 was \$[●], or approximately \$[●] per share of our Common Stock. After giving effect to the [●] shares of our Common Stock to be sold in this offering at a public offering price of \$[●] per share and assuming exercise of the Pre-Funded Warrants in this offering for [●] shares of Common Stock, our as adjusted net tangible book value as of September 30, 2022 would have been \$[●], or approximately \$[●] per share of our Common Stock. This represents an immediate increase in the net tangible book value of \$[●] per share of our Common Stock to our existing stockholders and an immediate dilution in net tangible book value of approximately \$[●] per share of our Common Stock to new investors, representing the difference between the public offering price and our as adjusted net tangible book value as of September 30, 2022, after giving effect to this offering, and the public offering price per share. Furthermore, if outstanding options or warrants are exercised, you could experience further dilution.

In addition, we have a significant number of stock options and warrants outstanding, and, in order to raise additional capital, we may in the future offer additional shares of our Common Stock or other securities convertible into or exchangeable for our Common Stock at prices that may not be the same as the price per share in this offering. In the event that the outstanding options or warrants are exercised or settled, or that we make additional issuances of Common Stock or other convertible or exchangeable securities, you could experience additional dilution. We cannot assure you that we will be able to sell shares or other securities in any other offering at a price per share that is equal to or greater than the price per share paid by investors in this offering, and investors purchasing shares or other securities in the future could have rights superior to existing stockholders, including investors who purchase shares of Common Stock in this offering. The price per share at which we sell additional shares of our Common Stock or securities convertible into Common Stock in future transactions, may be higher or lower than the price per share in this offering. As a result, purchasers of the shares we sell, as well as our existing stockholders, will experience significant dilution if we sell at prices significantly below the price at which they invested. See the section entitled "Dilution" below for a more detailed illustration of the dilution you would incur if you participate in this offering.

***Resales of our Common Stock in the public market during this offering by our stockholders may cause the market price of our Common Stock to fall.***

Sales of a substantial number of shares of our Common Stock could occur at any time. The issuance of new shares of our Common Stock could result in resales of our Common Stock by our current stockholders concerned about the potential ownership dilution of their holdings. In turn, these resales could have the effect of depressing the market price for our Common Stock.

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

We currently intend to use the net proceeds from the offering of securities under this prospectus for [general corporate and working capital purposes], as described in the section of this prospectus supplement entitled "Use of Proceeds." We will have broad discretion in the application of the net proceeds in the category of general corporate purposes and investors will be relying on the judgment of our management regarding the application of the proceeds of this offering.

The precise amount and timing of the application of these proceeds, if any, will depend upon a number of factors, such as our funding requirements and the availability and costs of other funds. As of the date of this prospectus supplement, we cannot specify with certainty all of the particular uses for the net proceeds to us from this offering. Depending on the outcome of our efforts and other unforeseen events, our plans and priorities may change and we may apply the net proceeds of this offering in different manners than we currently anticipate.

The failure by our management to apply these funds effectively could harm our business, financial condition and results of operations. Pending their use, we may invest the net proceeds from this offering in short-term, interest-bearing instruments. These investments may not yield a favorable return to our stockholders.

***This offering may cause the trading price of our Common Stock to decrease.***

The price per share, together with the number of shares of Common Stock we propose to issue and ultimately will issue if this offering is completed, may result in an immediate decrease in the market price of our Common Stock. This decrease may continue after the completion of this offering.

***There is no public market for the Warrants being offered in this offering.***

There is no established public trading market for the Warrants being offered in this offering, and we do not expect a market to develop. In addition, we do not intend to apply to list the Warrants on any securities exchange or nationally recognized trading system. Without an active market, the liquidity of the Warrants will be limited.

***Holders of our Warrants will have no rights as common stockholders until they acquire our Common Stock.***

Until you acquire shares of our Common Stock upon exercise of your Warrants, you will have no rights with respect to shares of our Common Stock issuable upon exercise of your Warrants. Upon exercise of your Warrants, you will be entitled to exercise the rights of a common stockholder only as to matters for which the record date occurs after the exercise date.

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***If we do not maintain a current and effective prospectus relating to the Common Stock issuable upon exercise of the Warrants, holders will only be able to exercise such Warrants on a “cashless basis.”***

If we do not maintain a current and effective prospectus relating to the shares of Common Stock issuable upon exercise of the Pre-Funded Warrants or the Common Warrants at the time that holders wish to exercise such warrants, they will only be able to exercise them on a “cashless basis,” and under no circumstances would we be required to make any cash payments or net cash settle such warrants to the holders. As a result, the number of shares of Common Stock that holders will receive upon exercise of the Pre-Funded Warrants or the Common Warrants will be fewer than it would have been had such holders exercised their Pre-Funded Warrants or the Common Warrants for cash. Under the terms of the Pre-Funded Warrants or the Common Warrants, we have agreed to use our best efforts to maintain a current and effective prospectus relating to the shares of Common Stock issuable upon exercise of such warrants until the expiration of such warrants. However, we cannot assure you that we will be able to do so. If we are unable to do so, the potential “upside” of the holder’s investment in our company may be reduced.

***The Pre-Funded Warrants and the Common Warrants are speculative in nature.***

The Pre-Funded Warrants and Common Warrants offered hereby do not confer any rights of Common Stock ownership on their holders, such as voting rights or the right to receive dividends, but rather merely represent the right to acquire shares of Common Stock at a fixed price. Specifically, commencing on the date of issuance, holders of the Pre-Funded Warrants may acquire the Common Stock issuable upon exercise of such warrants at an exercise price of \$[0.0001] per share and holders of the Common Warrants may acquire the Common Stock issuable upon exercise of such warrants at an exercise price of \$[●] per share. Moreover, following this offering, the market value of the Pre-Funded Warrants and the Common Warrants is uncertain, and there can be no assurance that the market value of the Pre-Funded Warrants or the Common Warrants will equal or exceed their public offering price.

***The Common Warrants may not have any value.***

The Common Warrants have an exercise price of \$[●] per share and will be exercisable immediately and will expire on the fifth anniversary of the date on which the Common Warrants become exercisable. In the event our Common Stock price does not exceed the exercise price of the Common Warrants during the period when the warrants are exercisable, the Common Warrants may not have any value.

***This offering is being conducted on a “best efforts” basis.***

The Placement Agent is offering the shares on a “best efforts” basis, and the Placement Agent is under no obligation to purchase any shares for its own account. The Placement Agent is not required to sell any specific number or dollar amount of shares of Common Stock in this offering but will use its best efforts to sell the securities offered in this prospectus supplement. As a “best efforts” offering, there can be no assurance that the offering contemplated hereby will ultimately be consummated.

***Certain provisions of the Pre-Funded Warrants and Common Warrants could discourage an acquisition of us by a third party.***

Certain provisions of the Pre-Funded Warrants and Common Warrants offered by this prospectus could make it more difficult or expensive for a third party to acquire us. The Pre-Funded Warrants and Common Warrants prohibit us from engaging in certain transactions constituting “fundamental transactions” unless, among other things, the surviving entity assumes our obligations under the Pre-Funded Warrants and Common Warrants. Further, the Common Warrants provide that, in the event of certain transactions constituting “fundamental transactions,” with some exception, holders of such warrants will have the right, at their option, to require us to repurchase such Common Stock Warrants at a price described in such warrants. These and other provisions of the Pre-Funded Warrants and Common Warrants offered by this prospectus could prevent or deter a third party from acquiring us even where the acquisition could be beneficial to you.

***We do not intend to pay dividends for the foreseeable future.***

We have never declared nor paid cash dividends on our capital stock. We currently intend to retain any future earnings to finance the operation and expansion of our business, and we do not expect to declare or pay any dividends in the foreseeable future. As a result, stockholders must rely on sales of their common stock after price appreciation as the only way to realize any future gains on their investment.

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#### CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus supplement contains “forward-looking statements” within the meaning of Section 27A of the Securities Act, Section 21E of the Exchange Act of 1934, as amended (the “Exchange Act”), and the Private Securities Litigation Reform Act of 1995. Forward-looking statements include, but are not limited to, statements that express our intentions, beliefs, expectations, strategies, predictions or any other statements relating to our future activities or other future events or conditions. These statements are based on current expectations, estimates and projections about our business based, in part, on assumptions made by management. These statements are not guarantees of future performance and involve risks, uncertainties and assumptions that are difficult to predict. Therefore, actual outcomes and results may, and are likely to, differ materially from what is expressed or forecasted in the forward-looking statements due to numerous factors discussed from time to time in this prospectus and in other documents which we file with the SEC. In addition, such statements could be affected by risks and uncertainties related to:

- our ability to identify financing sources to fund our capital expenditure requirements and continue operations until sufficient cash flow can be generated from operations;
- our ability to lower production costs to achieve cost-effective mass production, which we believe will be an important factor affecting adoption of the products;
- our ability to effectively execute our business plan and growth strategy;
- unforeseen or recurring operational problems at our facility, or a catastrophic loss of our manufacturing facility, including the temporary closures of our facility that might be required as a result of the continuing COVID-19 pandemic;
- our dependence on our suppliers, whose ability to supply us may be negatively impacted by, among other things, the measures being implemented to address COVID-19;
- our ability to secure battery cells from a foreign sole sourced vendor in order to maintain production levels due to supply chain constraints;
- changes in consumer demand for, and acceptance of, our products;
- overall strength and stability of general economic conditions and specifically of the automotive industry, both in the United States and globally;
- changes in U.S. and foreign trade policy, including the imposition of tariffs and the resulting consequences;
- changes in the competitive environment, including adoption of technologies and products that compete with our products;
- our ability to generate consistent revenues;

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- our ability to design, produce and market our vehicles within projected timeframes given that a vehicle consists of several thousand unique items and we can only go as fast as the slowest item;
- our experience to date in manufacturing and our ability to manufacture increasing numbers of vehicles at the volumes that we need in order to meet our goals;
- our reliance on as well as our ability to attract and retain key personnel;
- changes in the price of oil and electricity;
- changes in laws or regulations governing our business and operations;
- our ability to maintain adequate liquidity and financing sources and an appropriate level of debt, if any, on terms favorable to our company;
- the number of reservations and cancellations for our vehicles and our ability to deliver on those reservations;
- our ability to maintain quality control over our vehicles and avoid material vehicle recalls;
- our ability to manage the distribution channels for our products, including our ability to successfully implement our direct to consumer distribution strategy and any additional distribution strategies we may deem appropriate;
- our ability to obtain and protect our existing intellectual property protections including patents;
- changes in accounting principles, or their application or interpretation, and our ability to make estimates and the assumptions underlying the estimates, which could have an effect on earnings or losses;
- interest rates and the credit markets;
- costs and risks associated with litigation; and
- other risks described from time to time in periodic and current reports that we file with the SEC.

You should read this prospectus supplement, the accompanying prospectus and the documents that we incorporate by reference herein and therein completely and with the understanding that our actual future results may be materially different from what we currently expect. You should assume that the information appearing in this prospectus supplement, the accompanying prospectus and any document incorporated by reference herein and therein is accurate as of its date only. Because the risks referred to above could cause actual results or outcomes to differ materially from those expressed in any forward-looking statements made by us or on our behalf, you should not place undue reliance on any forward-looking statements. Further, any forward-looking statement speaks only as of the date on which it is made, and we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events. New factors emerge from time to time, and it is not possible for us to predict which factors may arise. In addition, we cannot assess the impact of each factor on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. We qualify all of the information presented in this prospectus supplement, the accompanying prospectus, any other prospectus supplement and any document incorporated herein or therein by reference, and particularly our forward-looking statements, by these cautionary statements.

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#### USE OF PROCEEDS

We estimate the net proceeds to us from this offering will be approximately \$[●] million, after deducting the placement agent fee and estimated offering expenses payable to us. However, we may sell less than the maximum number of Shares of Common Stock offered hereby, in which case the net proceeds would be less. There is no minimum amount

that we will sell under this prospectus supplement. As a “best efforts” offering, there can be no assurance that the offering contemplated hereby will ultimately be consummated or will be consummated with the sale of fewer than the maximum number of Shares offered hereby. We intend to use the net proceeds from the offering of securities under this prospectus for [working capital and general corporate purposes].

The timing and amount of our actual expenditures will be based on many factors, including cash flows from operations and the anticipated growth of our business. As of the date of this prospectus, we cannot specify with certainty all of the particular uses for the net proceeds to us from this offering. As a result, our management will have broad discretion regarding the timing and application of the net proceeds from this offering, and investors will be relying on the judgment of our management regarding the application of the net proceeds from this offering.

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## DILUTION

If you purchase our Common Stock (or equivalent) in this offering, your interest will be diluted to the extent of the difference between the public offering price per share and the net tangible book value per share of our Common Stock after this offering. We calculate net tangible book value per share by dividing our net tangible assets (tangible assets less total liabilities) by the number of shares of our Common Stock issued and outstanding as of September 30, 2022.

Our net tangible book value as of September 30, 2022 was \$[●], or approximately \$[●] per share. After giving effect to the sale of our Common Stock in this offering at a public offering price of \$[●] per share and assuming exercise of the Pre-Funded Warrants in this offering for [●] shares of Common Stock, our as adjusted net tangible book value as of September 30, 2022 would have been \$[●], or approximately \$[●] per share of our Common Stock. This represents an immediate increase in the net tangible book value of \$[●] per share of our Common Stock to our existing stockholders and an immediate dilution in net tangible book value of approximately \$[●] per share of our Common Stock to new investors. The following table illustrates this per share dilution:

Public offering price per share of our Common Stock		\$ [●]
Net tangible book value per share as of September 30, 2022	\$ [●]	
Increase in net tangible book value per share of our Common Stock attributable to this offering	\$ [●]	
As adjusted net tangible book value per share of our Common Stock as of September 30, 2022, after giving effect to this offering	\$ [●]	
Dilution per share to new investors purchasing shares of our Common Stock in this offering	\$ [●]	

The above discussion and table are based on [●] shares of our Common Stock outstanding as of September 30, 2022 and assumes the exercise of the Pre-Funded Warrants and gives effect to the [●]-for-[●] reverse stock split effected on [●], 2022. The number of shares outstanding as of September 30, 2022 excludes, as of such date:

- [●] shares of our Common Stock issuable upon the exercise of options outstanding and deferred equity stock units under our 2018 Omnibus Stock Incentive Plan, at a weighted average exercise price of \$[●] per share;
- [●] shares of our Common Stock issuable upon the exercise of options outstanding under our 2015 Stock Incentive Plan, at a weighted average exercise price of \$[●] per share;
- [●] shares of Common Stock issuable upon the exercise of warrants under our Amended and Restated 2012 Employee Stock Benefit Plan, at a weighted average exercise price of \$[●] per share;
- [●] shares of our Common Stock reserved for future issuance under our 2022 Omnibus Stock Incentive Plan; and
- [●] shares of Common Stock issuable upon the conversion of outstanding convertible notes.

Except as otherwise indicated, all information in this prospectus supplement assumes no exercise or forfeiture of the outstanding options or warrants after September 30, 2022, including, for the avoidance of doubt, any Common Warrants but not the Pre-Funded Warrants, which are assumed will be exercised for purposes of the above dilution calculation.

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## DESCRIPTION OF SECURITIES WE ARE OFFERING

We are offering (i) up to [●] shares of our Common Stock, (ii) [●] Pre-Funded Warrants to purchase up to shares of our Common Stock and (iii) Common Warrants to purchase up to [●] shares of our Common Stock. Each share of Common Stock and Pre-Funded Warrant is being sold together with one Common Warrant. Each Common Warrant is exercisable for one share of Common Stock. The shares of Common Stock, Pre-Funded Warrants and accompanying Common Warrants will be issued separately. We are also registering the shares of our Common Stock issuable from time to time upon exercise of the Pre-Funded Warrants and Common Warrants offered hereby.

### Common Stock

The material terms and provisions of our Common Stock and each other class of our securities that qualifies or limits our Common Stock are described in the section entitled “*Description of Capital Stock*” beginning on page 5 of the accompanying prospectus.

We are authorized to issue 200,000,000 shares of common stock, no par value (“common stock”), and 5,000,000 shares of preferred stock, no par value (“preferred stock”), of which 1,500,000 shares have been designated as the Series A-1 Preferred Stock (the “Series A-1 Preferred Stock”) and 2,000,000 shares have been designated as the Class C Preferred Stock (the “Class C Preferred Stock”).

### Pre-Funded Warrants

The following summary of certain terms and provisions of Pre-Funded Warrants that are being offered hereby is not complete and is subject to, and qualified in its entirety by, the provisions of the Pre-Funded Warrant, the form of which is filed as an exhibit to the registration statement of which this prospectus forms a part. Prospective investors should carefully review the terms and provisions of the form of Pre-Funded Warrant for a complete description of the terms and conditions of the Pre-Funded Warrants.

### Duration and Exercise Price

Each Pre-Funded Warrant offered hereby will have an initial exercise price of \$[0.0001] per share. The Pre-Funded Warrants will be immediately exercisable and may be



exercised at any time until the Pre-Funded Warrants are exercised in full. The exercise price and number of shares of Common Stock issuable upon exercise is subject to appropriate adjustment in the event of stock dividends, stock splits, reorganizations or similar events affecting our Common Stock and the exercise price.

### ***Exercisability***

The Pre-Funded Warrants will be exercisable, at the option of each holder, in whole or in part, by delivering a duly executed exercise notice accompanied by payment in full for the number of shares purchased upon such exercise (except in the case of a cashless exercise as discussed below). A holder (together with its affiliates) may not exercise any portion of the Pre-Funded Warrant to the extent that the holder would own more than 4.99% (or, at the election of a purchaser, 9.99%) of the outstanding Common Stock immediately after exercise, except that upon at least 61 days' prior notice from the holder to us, the holder may increase the amount of ownership of outstanding stock after exercising the holder's Pre-Funded Warrants up to 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the exercise, as such percentage ownership is determined in accordance with the terms of the Pre-Funded Warrants. No fractional shares of Common Stock will be issued in connection with the exercise of a Pre-Funded Warrant. In lieu of fractional shares, we will pay the holder an amount in cash equal to the fractional amount multiplied by the exercise price.

### ***Cashless Exercise***

In lieu of making the cash payment otherwise contemplated to be made to us upon such exercise in payment of the aggregate exercise price, the holder may elect instead to receive upon such exercise (either in whole or in part) the net number of shares of Common Stock determined according to a formula set forth in the Pre-Funded Warrants.

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### ***Fundamental Transaction***

In the event of a fundamental transaction, as described in the Pre-Funded Warrants and generally including any reorganization, recapitalization or reclassification of our Common Stock, the sale, transfer or other disposition of all or substantially all of our properties or assets, our consolidation or merger with or into another person, the acquisition of more than 50% of our outstanding voting securities, the holders of the Pre-Funded Warrants will be entitled to receive upon exercise of the Pre-Funded Warrants the kind and amount of securities, cash or other property that the holders would have received had they exercised the Pre-Funded Warrants immediately prior to such fundamental transaction. In addition, the holders of the Pre-Funded Warrants have the right to require us or a successor entity to redeem the Pre-Funded Warrant for the cash paid in the fundamental transaction in the amount of the Black Scholes value of the unexercised portion of the Pre-Funded Warrant on the date of the consummation of the fundamental transaction.

### ***Transferability***

Subject to applicable laws, a Pre-Funded Warrant may be transferred at the option of the holder upon surrender of the Pre-Funded Warrant to us together with the appropriate instruments of transfer.

### ***Exchange Listing***

We do not intend to list the Pre-Funded Warrants on any securities exchange or nationally recognized trading system.

### ***Rights as a Stockholder***

Except as otherwise provided in the Pre-Funded Warrants or by virtue of such holder's ownership of, the holders of the Pre-Funded Warrants do not have the rights or privileges of holders of our Common Stock, including any voting rights, until they exercise their Pre-Funded Warrants.

### ***Common Warrants***

The following summary of certain terms and provisions of the Common Warrants that are being offered hereby is not complete and is subject to, and qualified in its entirety by, the provisions of the Common Warrants, the form of which is filed as an exhibit to the registration statement of which this prospectus forms a part. Prospective investors should carefully review the terms and provisions of the form of Common Warrant for a complete description of the terms and conditions of the Common Warrants.

### ***Duration and Exercise Price***

Each Common Warrant offered will have an initial exercise price of \$[●] per share. The Common Warrants will be exercisable immediately and will expire on the fifth anniversary of the date on which the Common Warrants become exercisable. The exercise price and number of shares of Common Stock issuable upon exercise is subject to appropriate adjustment in the event of stock dividends, stock splits, reorganizations or similar events affecting our Common Stock and the exercise price. Common Warrants will be issued separately from the Common Stock and Pre-Funded Warrants and may be transferred separately immediately thereafter. For each share of Common Stock (or Pre-Funded Warrant, as applicable) purchased in this offering, one Common Warrant will be issued. Each Common Warrant is exercisable for one share of Common Stock.

### ***Exercisability***

The Common Warrants will be exercisable, at the option of each holder, in whole or in part, by delivering a duly executed exercise notice accompanied by payment in full for the number of shares purchased upon such exercise (except in the case of a cashless exercise as discussed below). A holder (together with its affiliates) may not exercise any portion of the Common Warrant to the extent that the holder would own more than 4.99% (or, at the election of a purchaser, 9.99%) of the outstanding Common Stock immediately after exercise, except that upon at least 61 days' prior notice from the holder to us, the holder may increase the amount of ownership of outstanding stock after exercising the holder's Common Warrants up to 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the exercise, as such percentage ownership is determined in accordance with the terms of the Common Warrants. No fractional shares of Common Stock will be issued in connection with the exercise of a Common Warrant. In lieu of fractional shares, we will pay the holder an amount in cash equal to the fractional amount multiplied by the exercise price.

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### ***Cashless Exercise***

If, at the time a holder exercises its Common Warrants, a registration statement registering the issuance of the shares of Common Stock underlying the Common Warrants under the Securities Act is not then effective or available, then in lieu of making the cash payment otherwise contemplated to be made to us upon such exercise in payment of the aggregate exercise price, the holder may elect instead to receive upon such exercise (either in whole or in part) the net number of shares of Common Stock determined according to a formula set forth in the Common Warrants.

## ***Fundamental Transaction***

In the event of a fundamental transaction, as described in the Common Warrants and generally including any reorganization, recapitalization or reclassification of our Common Stock, the sale, transfer or other disposition of all or substantially all of our properties or assets, our consolidation or merger with or into another person, the acquisition of more than 50% of our outstanding voting securities, the holders of the Common Warrants will be entitled to receive upon exercise of the Common Warrants the kind and amount of securities, cash or other property that the holders would have received had they exercised the Common Warrants immediately prior to such fundamental transaction. In addition, the holders of the Common Warrants have the right to require us or a successor entity to redeem the Common Warrant for the cash paid in the fundamental transaction in the amount of the Black Scholes value of the unexercised portion of the Common Warrant on the date of the consummation of the fundamental transaction.

## ***Transferability***

Subject to applicable laws, a Common Warrant may be transferred at the option of the holder upon surrender of the Common Warrant together with the appropriate instruments of transfer.

## ***Exchange Listing***

We do not intend to list the Common Warrants on any securities exchange or nationally recognized trading system.

## ***Right as a Stockholder***

Except as otherwise provided in the Common Warrants or by virtue of such holder's ownership of, the holders of the Common Warrants do not have the rights or privileges of holders of our Common Stock, including any voting rights, until they exercise their Common Warrants.

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## **PLAN OF DISTRIBUTION**

A.G.P. has agreed to act as our exclusive placement agent in connection with this offering subject to the terms and conditions of the placement agent agreement dated January [●], 2023. The Placement Agent is not purchasing or selling any of the securities offered by this prospectus supplement, nor is it required to arrange the purchase or sale of any specific number or dollar amount of securities, but has agreed to use its reasonable best efforts to arrange for the sale of all of the securities offered hereby. Therefore, we will enter into a securities purchase agreement directly with certain purchasers in connection with this offering and we may not sell the entire amount of securities offered pursuant to this prospectus supplement.

We will deliver the securities being issued to the investor upon receipt of such investor's funds for the purchase of the securities offered pursuant to this prospectus supplement. We expect to deliver the securities being offered pursuant to this prospectus supplement on or about January [●], 2023.

We have agreed to indemnify the Placement Agent against specified liabilities, including liabilities under the Securities Act, and to contribute to payments the Placement Agent may be required to make in respect thereof.

## **Fees and Expenses**

We have engaged A.G.P. as our exclusive placement agent in connection with this offering. This offering is being conducted on a "best efforts" basis and the Placement Agent has no obligation to buy any of the securities from us or to arrange for the purchase or sale of any specific number or dollar amount of securities. We have agreed to pay the Placement Agent a fee based on the aggregate proceeds as set forth in the table below:

	<b>Per Share and Accompanying Warrant</b>	<b>Per Pre-Funded Warrant and Accompanying Warrant</b>	<b>Total</b>
Public offering price	\$ [●]	\$ [●]	\$ [●]
Placement agent fees <sup>(1)</sup>	\$ [●]	\$ [●]	\$ [●]
Proceeds, before expenses, to us <sup>(2)</sup>	\$ [●]	\$ [●]	\$ [●]

(1) We have agreed to pay the Placement Agent a cash placement commission equal to 7% of the aggregate proceeds from the sale of the Shares and Pre-Funded Warrants sold in this offering. We have also agreed to reimburse the Placement Agent for certain expenses incurred in connection with this offering.

(2) The amount of the offering proceeds to us presented in this table does not give effect to any exercise of the Pre-Funded Warrants or Common Warrants being issued in this offering.

We have also agreed to reimburse the Placement Agent at closing for legal and other expenses incurred by them in connection with the offering in an aggregate amount up to \$75,000, as well as non-accountable expenses equal to \$15,000. We estimate the total expenses payable by us for this offering, excluding the placement agent fees and expenses, will be approximately \$[●].

## **Regulation M**

The Placement Agent may be deemed to be an underwriter within the meaning of Section 2(a)(11) of the Securities Act, and any commissions received by it and any profit realized on the resale of the shares sold by it while acting as principal might be deemed to be underwriting discounts or commissions under the Securities Act. As an underwriter, the Placement Agent would be required to comply with the requirements of the Securities Act and the Exchange Act, including, without limitation, Rule 415(a)(4) under the Securities Act and Rule 10b-5 and Regulation M under the Exchange Act. These rules and regulations may limit the timing of purchases and sales of shares by the Placement Agent acting as principal. Under these rules and regulations, the Placement Agent:

- may not engage in any stabilization activity in connection with our securities; and
- may not bid for or purchase any of our securities or attempt to induce any person to purchase any of our securities, other than as permitted under the Exchange Act, until it has completed its participation in the distribution.

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## Listing

Our Common Stock is listed on the Nasdaq Global Market under the trading symbol “FUV.”

## Lock-Up Agreements

Our directors and executive officers have entered into lock-up agreements. Under these agreements, these individuals have agreed, subject to specified exceptions, not to sell or transfer any shares of Common Stock or securities convertible into, or exchangeable or exercisable for, our shares of Common Stock during a period ending 90 days after the date of this prospectus supplement, without first obtaining the written consent of the investor. Specifically, these individuals have agreed, in part, not to:

- sell, offer, contract or grant any option to sell (including any short sale), pledge, transfer, establish an open “put equivalent position” within the meaning of Rule 16a-1(h) under the Securities Exchange Act of 1934, as amended;
- enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of our securities, whether any such transaction is to be settled by delivery of our shares of Common Stock, in cash or otherwise;
- make any demand for or exercise any right with respect to the registration of any of our securities;
- publicly disclose the intention to make any offer, sale, pledge or disposition, or to enter into any transaction, swap, hedge;
- or other arrangement relating to any of our securities.

Notwithstanding these limitations, these shares of Common Stock may be transferred under limited circumstances, including, without limitation, by gift, will or intestate succession.

In addition, we have agreed that, subject to certain exceptions, (i) we will not conduct any issuances of our Common Stock for a period of [90] days following closing of this offering and that (ii) we will not enter into a variable rate transaction for a period of [90] days following the closing of this offering.

## Discretionary Accounts

The Placement Agent does not intend to confirm sales of the securities offered hereby to any accounts over which it has discretionary authority.

## Other Activities and Relationships

The Placement Agent and certain of its affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. The Placement Agent and certain of its affiliates have, from time to time, performed, and may in the future perform, various commercial and investment banking and financial advisory services for us and our affiliates, for which they received or will receive customary fees and expenses.

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

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## LEGAL MATTERS

The validity of the securities offered hereby will be passed upon for us by Nelson Mullins Riley & Scarborough LLP, Raleigh, North Carolina. The Placement Agent is being represented in connection with this offering by Ballard Spahr LLP, Philadelphia, Pennsylvania.

## EXPERTS

The financial statements of Arcimoto, Inc. as of December 31, 2021 and 2020 and for each of the two years in the period ended December 31, 2021, incorporated by reference in this prospectus supplement and the accompanying prospectus to the Annual Report on Form 10-K for the year ended December 31, 2021, have been so incorporated in reliance on the report of *dbbmckennon*, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

## WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-3 under the Securities Act with respect to the securities offered by this prospectus. This prospectus, which is part of the registration statement, omits certain information, exhibits, schedules and undertakings set forth in the registration statement. For further information pertaining to us and the securities offered in this prospectus, reference is made to that registration statement and the exhibits and schedules to the registration statement. Statements contained in this prospectus as to the contents or provisions of any documents referred to in this prospectus are not necessarily complete, and in each instance where a copy of the document has been filed as an exhibit to the registration statement, reference is made to the exhibit for a more complete description of the matters involved.

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available for free to the public over the Internet on the SEC’s website at [www.sec.gov](http://www.sec.gov). Our common stock is listed on The Nasdaq Global Market under the symbol “FUV.” General information about our company, including our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as well as any amendments and exhibits to those reports, are available free of charge through our website at [www.arcimoto.com](http://www.arcimoto.com) as soon as reasonably practicable after we file them with, or furnish them to, the SEC. Information on, or that can be accessed through, our website is not incorporated into this prospectus or other securities filings and is not a part of these filings.

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## INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to “incorporate by reference” information into this prospectus supplement, which means important information may be disclosed to you by referring you to another document filed separately with the SEC. Any information incorporated by reference is deemed to be part of this prospectus supplement.

We incorporate by reference in this prospectus supplement the documents set forth below that have been previously filed with the SEC as well as any filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, on or after the date of this prospectus supplement and before the termination of the applicable offering; provided, however, that, except as specifically provided below, we are not incorporating any documents or information deemed to have been furnished rather than filed in accordance with SEC rules:

- our Annual Report on [Form 10-K](#) for the year ended December 31, 2021, filed with the SEC on March 31, 2022;
- our Definitive Proxy Statement on [Schedule 14A](#) filed with the SEC on May 2, 2022 (to the extent incorporated by reference into our Annual Report on Form 10-K);
- our Quarterly Reports on Form 10-Q for the quarters ended [March 31, 2022](#), [June 30, 2022](#) and [September 30, 2022](#), filed with the SEC on May 16, 2022, August 15, 2022 and November 14, 2022, respectively;
- our Current Reports on Form 8-K filed with the SEC on [January 14, 2022](#) (as amended on January 20, 2022), [February 3, 2022](#), [April 26, 2022](#), [April 27, 2022](#), [June 16, 2022](#), [June 16, 2022](#), [June 21, 2022](#) (second filing), [July 6, 2022](#) (first filing), [July 15, 2022](#), [July 18, 2022](#), [August 4, 2022](#), [August 11, 2022](#), [August 16, 2022](#), [August 19, 2022](#), [September 1, 2022](#), [September 19, 2022](#), [September 29, 2022](#), [October 5, 2022](#), [October 20, 2022](#), [October 24, 2022](#), [November 1, 2022](#), [November 14, 2022](#) (first filing), [November 14, 2022](#) (third filing), [November 30, 2022](#), [December 15, 2022](#); and
- the description of our common stock contained in our registration statement on [Form 8-A](#) filed with the SEC on September 21, 2017, under the Exchange Act, as supplemented and updated by the description of our common stock set forth in [Exhibit 4.2](#) of our Annual Report on Form 10-K for the year ended December 31, 2021, including any amendment or report filed for the purpose of updating such description.

Any statement contained in a document incorporated by reference in this prospectus supplement shall be deemed to be modified or superseded for purposes of this prospectus supplement to the extent that a statement contained herein or in any other subsequently filed document that also is incorporated by reference in this prospectus supplement modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus supplement or the accompanying prospectus.

Information furnished under Items 2.02 and 7.01 of any of our Current Reports on Form 8-K, including any related exhibits under Item 9.01, will not be incorporated by reference in this prospectus supplement.

To obtain copies of these filings, see “Where You Can Find More Information.” We will provide to each person, including any beneficial owner, to whom this prospectus supplement is delivered, without charge upon written or oral request, a copy of any or all of the information that has been incorporated by reference into this prospectus supplement but not delivered with the prospectus supplement, including exhibits that are specifically incorporated by reference into such documents. You should direct any requests for such information to:

Arcimoto, Inc.  
2034 West 2nd Avenue  
Eugene, Oregon 97402  
(541) 683-6293

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## PROSPECTUS



**\$300,000,000**  
**Common Stock**  
**Preferred Stock**  
**Debt Securities**  
**Warrants**  
**Rights**  
**Units**

From time to time, we may offer and sell our securities listed above in one or more offerings in amounts, at prices and on terms that we will determine at the time of the offering. The aggregate initial offering price of all securities sold by us under this prospectus will not exceed \$300,000,000.

Each time we offer our securities, we will provide you with specific terms of the securities offered in supplements to this prospectus. This prospectus may not be used to offer and sell our securities unless accompanied by a prospectus supplement. Accompanying prospectus supplements may add, update or change information contained in this prospectus. You should read this prospectus, the accompanying prospectus supplements, the information incorporated by reference into this prospectus and the accompanying prospectus supplements and the additional information described below under the heading “Where You Can Find More Information” carefully before you invest in our securities.

Our common stock is listed on The Nasdaq Global Market under the symbol “FUV.” The last reported sale price of our common stock on December 29, 2021 was \$8.00 per share.

Our securities may be offered and sold to or through underwriters, brokers, dealers or agents as designated from time to time, or directly to one or more other purchasers or through a combination of such methods. For additional information, you should refer to the section captioned “Plan of Distribution” on page 28 of this prospectus. If any underwriters, dealers or agents are involved in the sale of any of our securities, their names, and any applicable purchase price, fee, commission or discount arrangements between or among them, will be set forth, or will be calculable from the information set forth, in the accompanying prospectus supplement. The price to the public of our securities and the net proceeds that we expect to receive from such sale will also be set forth in the accompanying prospectus supplement.

Investing in our securities involves a high degree of risk. You should carefully read and consider the risk factors set forth under the caption “Risk Factors” on page 2 of this prospectus, in any accompanying prospectus supplement and in the documents incorporated or deemed incorporated by reference into this prospectus and the accompanying prospectus supplement before you invest in our securities.

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

The date of this prospectus is January 13, 2022

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement on Form S-3 that we have filed with the Securities and Exchange Commission (the “SEC”) using a shelf registration process. Using this process, we may, from time to time, sell any combination of the securities described in this prospectus in one or more offerings up to a total dollar amount of \$300,000,000. This prospectus provides a general description of the securities we may offer. Each time we sell any securities under this prospectus, we will provide a prospectus supplement that will contain more specific information about the terms of the securities being offered and the specific manner in which they will be offered. This prospectus may not be used to offer and sell our securities unless accompanied by a prospectus supplement. Accompanying prospectus supplements may add, update or change information contained in this prospectus. To the extent that any statement we make in an accompanying prospectus supplement is inconsistent with statements made in this prospectus or in any document incorporated by reference herein, the statements made in this prospectus or in any document incorporated by reference herein will be deemed modified or superseded by those made in the accompanying prospectus supplement.

You should carefully read this prospectus, any accompanying prospectus supplement and the documents incorporated by reference herein and therein as described below under the captions “Where You Can Find More Information” and “Incorporation by Reference” before making a decision to invest in our securities.

You should rely only on the information set forth in or incorporated by reference into this prospectus and any accompanying prospectus supplement. We have not authorized anyone else to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it.

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 in this prospectus, any prospectus supplement and the documents incorporated by reference herein and therein are accurate only as of the dates of those documents. Our business, financial condition, results of operations and prospects may have changed since those dates.

Unless the context otherwise requires, throughout this prospectus and any accompanying prospectus supplement, the words “Arcimoto,” “we,” “us,” “our,” “the registrant” or the “Company” refer to Arcimoto, Inc., and the term “securities” refers collectively to our preferred stock, common stock, debt securities, warrants, units and any combination of the foregoing securities.

This prospectus contains summaries of certain provisions contained in documents described in this prospectus. All of the summaries are qualified in their entirety by the actual documents, which you should review before making a decision to invest in our securities. Copies of the documents referred to herein have been filed, or will be filed or incorporated by reference as exhibits to the registration statement of which this prospectus is a part, and you may obtain copies of those documents as described below under “Where You Can Find More Information.”

## THE COMPANY

We were incorporated in the State of Oregon on November 21, 2007. Our mission is to catalyze the global shift to a sustainable transportation system.

Over the past 14 years, the Company has developed a new vehicle platform designed around the needs of everyday drivers. Having approximately one-third the weight and one-third of the footprint of the average car, the Arcimoto platform's purpose is to bring the joy of ultra-efficient, pure electric driving to the masses. To date, the Company has introduced five vehicle products built on this platform that target specific niches in the vehicle market: our flagship product, the Fun Utility Vehicle® ("FUV®"), for everyday consumer trips; the Deliverator® for last-mile delivery and general fleet utility; the Rapid Responder™ for emergency services and security; the Cameo™ for film, sports and influencers; and the Arcimoto Roadster, an unparalleled pure-electric on-road thrill machine.

Our principal executive offices are located at 2034 West 2nd Avenue, Eugene, Oregon 97402, and our telephone number is (541) 683-6293. Our website address is [www.arcimoto.com](http://www.arcimoto.com). The information located on, or accessible from, our website is not, and shall not be deemed to be, a part of this prospectus or any accompanying prospectus supplement or incorporated into any other filings that we make with the SEC.

## RISK FACTORS

An investment in our securities involves a high degree of risk. You should carefully read and review the risk factors discussed under the caption "Risk Factors" in our most recent Annual Report on Form 10-K, the risk factors discussed under the caption "Risk Factors" in any accompanying prospectus supplement, and any risk factors discussed in our other filings with the SEC which are incorporated by reference into this prospectus and any accompanying prospectus supplement before investing in our securities. These risks and uncertainties are not the only risks and uncertainties we face. Additional risks and uncertainties not presently known to us, or that we currently view as immaterial, may also materially and adversely affect us. If any of the risks or uncertainties described in our most recent Annual Report on Form 10-K, any accompanying prospectus supplement or our other filings with the SEC or if any additional risks and uncertainties actually occur, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that case, the trading price of our securities could decline, and you could lose all or part of your investment.

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, any accompanying prospectus supplement and the documents incorporated by reference herein and therein contain "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), Section 21E of the Exchange Act of 1934, as amended (the "Exchange Act"), and the Private Securities Litigation Reform Act of 1995. Forward-looking statements include, but are not limited to, statements that express our strategies, intentions, financial projections, beliefs, expectations, strategies, predictions, or any other statements relating to our future activities or other future events or conditions. Also, any statement that does not describe historical or current facts is a forward-looking statement. These statements generally can be identified by the use of forward-looking terminology such as "believes", "expects", "may", "will", "could", "should", "projects", "plans", "goal", "targets", "potential", "estimates", "pro forma", "seeks", "intends", or "anticipates", or similar expressions. These statements are based on current expectations, estimates and projections about our business based, in part, on assumptions made by management. These statements are not guarantees of future performance and involve risks, uncertainties and assumptions that are difficult to predict and/or beyond our control. Therefore, actual outcomes and results may, and are likely to, differ materially from what is expressed or forecasted in the forward-looking statements due to numerous factors discussed in this prospectus, any accompanying prospectus supplement and the documents incorporated by reference herein. In addition, such statements could be affected by risks and uncertainties related to:

- our ability to identify financing sources to fund our capital expenditure requirements and continue operations until sufficient cash flow can be generated from operations;
- our ability to lower production costs to achieve cost-effective mass production, which we believe will be an important factor affecting adoption of the products;
- our ability to effectively execute our business plan and growth strategy;
- unforeseen or recurring operational problems at our facility, or a catastrophic loss of our manufacturing facility, including the temporary closures of our facility that might be required as a result of the continuing COVID-19 pandemic;
- our dependence on our suppliers, whose ability to supply us may be negatively impacted by, among other things, the measures being implemented to address COVID-19;
- our ability to secure battery cells from a foreign sole sourced vendor in order to maintain production levels due to supply chain constraints;
- changes in consumer demand for, and acceptance of, our products;
- overall strength and stability of general economic conditions and specifically of the automotive industry, both in the United States and globally;
- changes in U.S. and foreign trade policy, including the imposition of tariffs and the resulting consequences;
- changes in the competitive environment, including adoption of technologies and products that compete with our products;
- our ability to generate consistent revenues;
- our ability to design, produce and market our vehicles within projected timeframes given that a vehicle consists of several thousand unique items and we can only go as fast as the slowest item

- our experience to date in manufacturing and our ability to manufacture increasing numbers of vehicles at the volumes that we need in order to meet our goals;

- our reliance on as well as our ability to attract and retain key personnel;
- changes in the price of oil and electricity;
- changes in laws or regulations governing our business and operations;
- our ability to maintain adequate liquidity and financing sources and an appropriate level of debt, if any, on terms favorable to our company;
- the number of reservations and cancellations for our vehicles and our ability to deliver on those reservations;
- our ability to maintain quality control over our vehicles and avoid material vehicle recalls;
- our ability to manage the distribution channels for our products, including our ability to successfully implement our direct to consumer distribution strategy and any additional distribution strategies we may deem appropriate;
- our ability to obtain and protect our existing intellectual property protections including patents;
- changes in accounting principles, or their application or interpretation, and our ability to make estimates and the assumptions underlying the estimates, which could have an effect on earnings or losses;
- interest rates and the credit markets;
- costs and risks associated with litigation; and
- other risks described from time to time in periodic and current reports that we file with the SEC.

This list of risks and uncertainties, however, is only a summary of some of the most important factors and is not intended to be exhaustive. You should carefully read and review the risks and information contained in, or incorporated by reference into, this prospectus and in any accompanying prospectus supplement, including, without limitation, the section of this prospectus captioned “Risk Factors,” the section captioned “Risk Factors” which is incorporated by reference herein from our most recent Annual Report on Form 10-K and any other risks and uncertainties we identify in other reports and information that we file with the SEC. New factors that are not currently known to us or of which we are currently unaware may also emerge from time to time that could materially and adversely affect us.

All written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We caution investors not to rely too heavily on the forward-looking statements we make or that are made on our behalf. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, level of activity, performance or achievements. Any forward-looking statement made by us in this prospectus speaks only as of the date of this prospectus. Except as required by applicable law, we undertake no obligation and specifically decline any obligation to update any of these forward-looking statements after the date of such statements are made, whether as a result of new information, future events or otherwise. You should, however, carefully read and review any further disclosures we make related to forward-looking statements in any accompanying prospectus supplement and in the documents incorporated by reference herein and therein.

## DESCRIPTION OF CAPITAL STOCK

In the discussion that follows, we have summarized certain material provisions of our Second Amended and Restated Articles of Incorporation, as amended (the “Articles”), our Second Amended and Restated Bylaws (the “Bylaws”) and the Oregon Business Corporation Act (the “Act”) that relate to our capital stock. This summary is not complete, is qualified in its entirety by reference to our Articles and our Bylaws and is subject to the relevant provisions of the Act. Copies of our Articles and Bylaws have been filed with the SEC and are incorporated by reference into this prospectus. You should carefully read our Articles and our Bylaws and the relevant provisions of the Act before you invest in our capital stock.

### Authorized Capital Stock

We are authorized to issue 100,000,000 shares of common stock, no par value (“common stock”), and 5,000,000 shares of preferred stock, no par value (“preferred stock”), of which 1,500,000 shares have been designated as the Series A-1 Preferred Stock (the “Series A-1 Preferred Stock”) and 2,000,000 shares have been designated as the Class C Preferred Stock (the “Class C Preferred Stock”).

As of December 27, 2021:

- 37,643,369 shares of our common stock were issued and outstanding;
- no shares of our Series A-1 Preferred Stock were issued and outstanding;
- no shares of our Class C Preferred Stock were issued and outstanding;
- 2,295,500 shares of our common stock were reserved for issuance, but not subject to outstanding awards, under our 2018 Omnibus Stock Incentive Plan (“2018 Plan”), our Amended and Restated 2015 Stock Incentive Plan (“2015 Plan”) and our 2012 Employee Stock Benefit, as amended (“2012 Plan”);
- 3,967,200 shares of our common stock reserved for issuance in connection with outstanding awards issued under our 2018 Plan, 2015 Plan and 2012 Plan; and
- 122,238 shares of our common stock reserved for issuance in connection with outstanding underwriter warrants.

### Common Stock

General. Holders of shares of common stock have the rights set forth in our Articles and Bylaws and the Act. The rights, preferences and privileges of the holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of our preferred stock that we may designate and issue.

Ranking. Our common stock, with respect to dividend rights, ranks (i) junior to the Series A-1 Preferred Stock and any other series of preferred stock that we may designate and issue that has dividend rights that are senior to our common stock, and (ii) *pari passu* with our Class C Preferred Stock. Our common stock, with respect to rights upon a liquidation, dissolution and winding up of the Company, ranks (i) junior to any indebtedness of the Company, the Series A-1 Preferred Stock and any other series of preferred stock that we may designate and issue that has liquidation rights that are senior to our common stock, and (ii) *pari passu* with our Class C Preferred Stock.

Dividends and Other Distributions. Subject to the preferential rights of any series of preferred stock having dividend rights that are senior to the common stock, including the Series A-1 Preferred Stock, the holders of shares of common stock are entitled to receive, when and if declared by our Board of Directors (“Board”), out of the assets of the Company which are legally available therefor, dividends payable in either in cash, in property or in shares of capital stock.

Voting. Each holder of common stock has one vote in respect of each share of common stock held by such holder of record on the books of the Company for the election of directors and on all matters submitted to a vote of the shareholders of the Company. Holders of common stock do not have cumulative voting rights. The holders of shares preferred stock and common stock vote together as a single class on all matters.

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Liquidation Rights. In the event of any dissolution, liquidation or winding up of the affairs of the Company, after the payment of all of the Company’s debts and other liabilities and after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of the preferred stock, including the Series A-1 Preferred Stock, holders of the common stock are entitled to receive all of the remaining assets of the Company available for distribution to shareholders ratably in proportion to the number of shares of common stock held by such holders.

Conversion and Exchange Rights. Our common stock is not convertible into or exchangeable for any other shares of our capital stock.

Preemptive Rights. Holders of our common stock do not have any preemptive rights.

Redemption and Sinking Fund. We have no obligation or right to redeem our common stock, and there is no sinking fund that pertains to the common stock.

Fully Paid and Non-Assessable. The issued and outstanding shares of our common stock are fully paid and non-assessable.

Listing and Trading. Our common stock is listed for trading on The Nasdaq Global Market under the symbol “FUV.”

Transfer Agent and Registrar. The transfer agent and registrar for our common stock is Broadridge Financial Solutions, Inc.

## **Preferred Stock**

We are authorized, without any additional action by our shareholders, to issue shares of our preferred stock in one or more series, each with such designations, rights, preferences, voting powers (or no voting powers), relative, participating, optional or other special rights and privileges and such qualifications, limitations or restrictions as our Board may determine. The authority of our Board with respect to each such series includes, without limitation of the foregoing, the right to provide that the shares of each such series may be (i) subject to redemption at such time or times and at such price or prices, (ii) entitled to receive dividends (which may be cumulative or non-cumulative) at such rates, on such conditions and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or classes or any other series, (iii) entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the Company, (iv) convertible into, or exchangeable for, shares of any other class or classes of stock, or of any other series of the same or any other class or classes of stock of the Company at such price or prices or at such rates of exchange, and with such adjustments, if any, (v) entitled to the benefit of such limitations, if any, on the issuance of additional shares of such series or shares of any other series of Preferred Stock and/or (vi) entitled to such other preferences, powers, qualifications, rights and privileges, all as our Board deems advisable and as are not inconsistent with our Articles and Bylaws and the Act.

If we issue preferred stock, we will fix the rights, preferences, privileges, qualifications and restrictions of the preferred stock of each series that we sell under this prospectus and any accompanying prospectus supplements in articles of amendment to our Articles relating to that series. We will also incorporate by reference into the registration statement, of which this prospectus is a part, the form of any articles of amendment that describes the terms of the series of preferred stock we are offering before the issuance of the related series of preferred stock. We urge you to read the accompanying prospectus supplement related to any series of preferred stock we may offer, as well as the complete articles of amendment that contains the terms of the applicable series of preferred stock. It is not possible to state the actual effect of the issuance of any shares of preferred stock upon the rights of holders of our common stock until our Board determines the specific rights of the holders of the preferred stock. However, these effects might include restricting dividends on the common stock, diluting and/or adversely affecting the voting power of the common stock, impairing the liquidation rights of the common stock, delaying or preventing the completion of a merger, acquisition, tender offer or other takeover attempt and delaying or preventing the removal of management of the Company. Any such effects could, in turn, depress the trading price of our common stock. All shares of preferred stock offered will, when issued, be fully paid and nonassessable, including shares of preferred stock issued upon the exercise or exchange of any other securities described in this prospectus.

The transfer agent and registrar for the preferred stock will be set forth in an accompanying prospectus supplement.

The Act provides that the holders of preferred stock will have the right to vote separately as a class on any proposal involving fundamental changes in the rights of holders of that preferred stock. This statutory right is in addition to any voting rights that may be provided for in any applicable articles of amendment.

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## ***Series A-1 Preferred Stock***

General. Holders of our shares of Series A-1 Preferred Stock have the rights set forth in our Articles, our Bylaws and the Act.

Ranking. Our Series A-1 Preferred Stock, with respect to dividend rights, ranks (i) junior to any other series of preferred stock that we may designate and issue that has dividend rights that are senior to our Series A-1 Preferred Stock, and (ii) senior to our Class C Preferred Stock, any other series of preferred stock that we may designate and issue that has dividend rights that are junior to our Series A-1 Preferred Stock and our common stock. Our Series A-1 Preferred Stock, with respect to rights upon a liquidation, dissolution and winding up of the Company, ranks (i) junior to any indebtedness of the Company and any other series of preferred stock that we may designate and issue that has liquidation rights that are senior to our Series A-1 Preferred Stock, and (ii) senior to our Class C Preferred Stock, any other series of preferred stock that we may designate and issue that has liquidation rights that are junior to our Series A-1 Preferred Stock and our common stock.



**Dividends and Other Distributions.** Holders of shares of Series A-1 Preferred Stock are entitled to receive, prior and in preference to any declaration or payment of any dividend on the Class C Preferred Stock and the common stock and *pari passu* with each other an amount equal to that paid on any other outstanding shares of capital stock of the Company, payable when, as, and if declared by our Board. Such dividends shall not be cumulative. Unless full dividends on the Series A-1 Preferred Stock for all past dividend periods and the then-current dividend period have been paid and an amount sufficient for the payment of such dividends have been set apart: (i) no dividend (other than a dividend payable solely in common stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of common stock) may be paid or declared, and no distribution may be made, on any Class C Preferred Stock or common stock, and (ii) no shares of Class C Preferred Stock or common stock may be purchased, redeemed, or acquired by the Company and no funds may be paid into or set aside or made available for a sinking fund for the purchase, redemption, or acquisition thereof, provided, however, that this restriction does not apply to the repurchase of shares of common stock held by employees, officers, directors, consultants or other persons performing services for the Company or any wholly-owned subsidiary of the Company that are subject to restrictive stock purchase agreements under which the Company has the option to repurchase such shares at cost upon the occurrence of certain events, such as the termination of employment.

**Voting.** Holders of shares of Series A-1 Preferred Stock are entitled to vote on all matters and are entitled to a number of votes equal to the number of votes that would be accorded to the largest number of whole shares of common stock into which such holder's shares of Series A-1 Preferred Stock could then be converted, pursuant to the provisions of "Conversion and Exchange Rights" below, at the record date for the determination of shareholders entitled to vote on such matter or, if no such record date is established, at the date such vote is taken or any written consent of shareholders is solicited. Holders of Series A-1 Preferred Stock do not have cumulative voting rights. The holders of shares preferred stock and common stock vote together as a single class on all matters.

**Liquidation Rights.** The holders of Series A-1 Preferred are entitled to receive, prior and in preference to any distribution of any of the Company's assets to the holders of the Class C Preferred Stock and common stock, an amount per share equal to the original issue price of that share for each then-outstanding share of Series A-1 Preferred Stock plus any declared but unpaid dividends on such share (together, the "Series A-1 Liquidation Amount"). If, upon the occurrence of any liquidation, dissolution or winding up of the Company, the assets thus distributed among the holders of Series A-1 Preferred is insufficient to permit the payment to such holders of the full Series A-1 Liquidation Amount, then the entire assets of the Company legally available for distribution will be distributed ratably among the holders of Series A-1 Preferred in the same proportion as the full preferential amount each such holder would otherwise be entitled to receive bears to the total of the full preferential amount that would otherwise be distributable to the holders of Series A-1 Preferred.

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After payment in full of the Series A-1 Liquidation Amount, or after funds necessary for such payment have been set aside by the Company in trust for the account of holders of such shares so as to be available for such payment, holders of Series A-1 Preferred will not be entitled to any further participation in the distribution of the assets of the Company and will have no further rights of conversion, and the remaining assets available for distribution will be distributed among the holders of Class C Preferred Stock and common stock pro rata based on the number of shares of Class C Preferred Stock and common stock held by each.

**Conversion and Exchange Rights.** Each share of Series A-1 Preferred is convertible, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, into a number of shares of common stock as is determined by dividing the original issue price of the share of Series A-1 Preferred Stock by the Series A-1 Conversion Price (as defined below) in effect at the time of conversion. The "Series A-1 Conversion Price" of each share is initially equal to the original issue price of the share of Series A-1 Preferred Stock. The initial Series A-1 Conversion Price, and the rate at which shares of Series A-1 Preferred may be converted into shares of common stock, are subject to various adjustments set forth in our Articles. In the event of a liquidation, dissolution or winding up of the Company or a Deemed Liquidation Event (as defined in our Articles), the conversion rights of the Series A-1 Preferred Stock will terminate at the close of business on the last full day preceding the date fixed for the payment of any such amounts distributable on such event to the holders of Series A-1 Preferred Stock. No fractional shares of common stock will be issued upon conversion of the Series A-1 Preferred Stock. In lieu of any fractional shares to which a holder would otherwise be entitled, the Company will pay cash equal to such fraction multiplied by the fair market value of a share of common stock as determined in good faith by our Board.

Upon either (i) the closing of the sale of shares of common stock to the public at a price of at least \$5.00 per share in a firm-commitment, underwritten public offering pursuant to an effective registration statement under the Securities Act resulting in at least \$15,000,000 of proceeds, net of the underwriting discount and commissions, to the Company or (ii) the date and time, or the occurrence of an event, specified by vote or written consent of the holders of at least fifty percent (50%) of the then outstanding shares of Series A-1 Preferred Stock, (a) all then-outstanding shares of Series A-1 Preferred Stock will automatically be converted into shares of common stock, at the then-effective conversion rate and (b) such shares may not be reissued by the Company.

Series A Preferred Stock is not exchangeable for any other shares of our capital stock.

**Preemptive Rights.** Holders of our Series A-1 Preferred Stock do not have any preemptive rights.

**Redemption and Sinking Fund.** We have no obligation or right to redeem our Series A-1 Preferred Stock, and there is no sinking fund that pertains to the Series A-1 Preferred Stock.

**Fully Paid and Non-Assessable.** The issued and outstanding shares of our Series A-1 Preferred Stock are fully paid and non-assessable.

### ***Class C Preferred Stock***

**General.** Holders of shares of Class C Preferred Stock have the rights set forth in our Articles and Bylaws and the Act.

**Ranking.** Our Class C Preferred Stock, with respect to dividend rights, ranks (i) junior to the Series A-1 Preferred Stock and any other series of preferred stock that we may designate and issue that has dividend rights that are senior to our Class C Preferred Stock, and (ii) *pari passu* with our common stock. Our Class C Preferred Stock, with respect to rights upon a liquidation, dissolution and winding up of the Company, ranks (i) junior to any indebtedness of the Company, the Series A-1 Preferred Stock and any other series of preferred stock that we may designate and issue that has liquidation rights that are senior to our Class C Preferred Stock, and (ii) *pari passu* with our common stock.

**Dividends and Other Distributions.** Subject to the preferential rights of any series of preferred stock having dividend rights that are senior to the Class C Preferred Stock, including the Series A-1 Preferred Stock, the holders of shares of the Class C Preferred Stock rank *pari passu* with our common stock and are entitled to receive, when and if declared by our Board, out of the assets of the Company which are legally available therefor, dividends payable in either in cash, in property or in shares of capital stock.

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**Voting.** Each holder of Class C Preferred Stock has one vote in respect of each share of stock held by such holder of record on the books of the Company for the election of directors and on all matters submitted to a vote of shareholders of the Company. Holders of Class C Preferred Stock do not have cumulative voting rights. The holders of shares preferred stock and common stock vote together as a single class on all matters.

**Liquidation Rights.** In the event of any dissolution, liquidation or winding up of the affairs of the Company, after the payment of all of the Company's debts and other liabilities and after distribution in full of the preferential amounts, if any, to be distributed to the holders of shares of the Company's other classes and series of preferred stock, including the Series A-1 Preferred Stock, holders of the Class C Preferred Stock are entitled to receive all of the remaining assets of the Company of whatever kind available for distribution to shareholders pro rata with the holders of shares of common stock, treating for this purpose all such shares of Class C Preferred Stock as if they had been converted to common stock on a 1:1 basis immediately prior to such liquidation, dissolution or winding up of the Company.

**Conversion and Exchange Rights.** Our Class C Preferred Stock is convertible into shares of common stock only upon the effectiveness of articles of amendment to our Articles that increase in the number of authorized shares of our common stock in which event all then-outstanding shares of Class C Preferred Stock shall automatically be converted into shares of our common stock at the ratio of 1:1. Our Class C Preferred Stock is not otherwise convertible into or exchangeable for any other shares of our capital stock.

**Preemptive Rights.** Holders of our Class C Preferred Stock do not have any preemptive rights.

**Redemption and Sinking Fund.** We have no obligation or right to redeem our Class C Preferred Stock, and there is no sinking fund that pertains to the Class C Preferred Stock.

**Fully Paid and Non-Assessable.** The issued and outstanding shares of our Class C Preferred Stock are fully paid and non-assessable.

#### **Certain provisions of Oregon law, our Articles and our Bylaws**

Certain provisions of Oregon law and our Articles and Bylaws discussed below may have the effect of making more difficult or discouraging a tender offer, proxy contest or other takeover attempt. These provisions are expected to encourage persons seeking to acquire control of our Company to first negotiate with our Board. We believe that the benefits of increasing our ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure our Company outweigh the disadvantages of discouraging these proposals because negotiation of these proposals could result in an improvement of their terms.

#### **Oregon Business Combination Act**

We are subject to the Oregon Business Combination Act, an anti-takeover law. In general, the Oregon Business Combination Act prohibits a publicly-held Oregon corporation from engaging in a "business combination" with an "interested shareholder" for a period of three years following the date the person became an interested shareholder, unless:

- the board of directors approves the transaction in which the shareholder became an interested shareholder prior to the date the interested shareholder attained that status;
- when the shareholder became an interested shareholder, such shareholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding shares owned by directors and officers and certain shares owned by employee benefits plans; or
- on or subsequent to the date the business combination is approved by the board of directors, the business combination is authorized by the affirmative vote of at least 66 2/3% of the voting stock not owned by the interested shareholder.

Generally, a "business combination" includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested shareholder. Generally, an "interested shareholder" is a person who, together with affiliates and associates, owns, or is an affiliate or associate of the corporation and within three years prior to the determination of interested shareholder status did own, 15% or more of a corporation's voting stock.

#### **Oregon Control Share Act**

We are subject to the Oregon Control Share Act, under which a person who acquires voting stock in a transaction that results in the person holding more than 20%, 33 1/3% or 50% of the total voting power cannot vote the shares it acquires in the acquisition unless voting rights are accorded to such control shares:

- by the holders of a majority of the outstanding voting shares, excluding the control shares held by such person and shares held by our officers and directors who are also employees of our Company, or inside directors; and
- by the holders of a majority of the outstanding voting shares, including the control shares held by such person and shares held by our officers and inside directors.

This vote would be required at the time an acquiring person's holdings exceed 20% of the total voting power, and again at the time the acquiring person's holdings exceed 33 1/3% and 50%, respectively.

The Oregon Control Share Act and the Oregon Business Combination Act could have the effect of encouraging potential acquirers to negotiate with our Board and discourage potential acquirers unwilling to comply with the provisions of these laws. These laws also may delay, defer or prevent a tender offer or takeover attempt of our Company that a shareholder might consider in the shareholder's best interests, including those attempts that might result in a premium over the market price for the shares held by our shareholders. An Oregon corporation may provide in its articles of incorporation or bylaws that the laws described above do not apply to its shares. We have not adopted such a provision and do not currently intend to do so.

#### **Governing Documents**

Our Articles and Bylaws include a number of provisions that may have the effect of deterring acquisition proposals or delaying or preventing changes in control or management of our Company.

#### **Restated Articles**

- **Best Interests of the Company.** Oregon law and our Articles authorize our Board, in all matters, to consider the social, legal and economic effects on our employees and on the communities and geographical areas in which we operate, the long-term and short-term interests of us and our shareholders, and our effect

on the environment. Because our Board is not required to make any determination on matters affecting potential takeovers solely based on its judgment as to the best interests of our shareholders, our Board could act in a manner that would discourage an acquisition attempt or other transaction that some, or a majority, of our shareholders might believe to be in their best interests or in which such shareholders might receive a premium for their stock over the then market price of such stock.

- No Cumulative Voting. Our Articles do not include a provision for cumulative voting for directors. Under cumulative voting, a minority shareholder holding a sufficient percentage of a class of shares may be able to ensure the election of one or more directors.
- Preferred Stock. We are authorized to issue “blank check” preferred stock, which, although intended primarily as a financing tool and not as a defense against takeovers, could potentially be used by our Board, without any further vote or action by our shareholders, to make uninvited attempts to acquire control more difficult by, for example, diluting the ownership interest or voting power of a substantial shareholder, increasing the consideration necessary to effect an acquisition or selling unissued shares to a friendly third party.

#### Bylaws

- Amendments. Our Board may alter our Bylaws without obtaining shareholder approval.
- Number of Directors. The number of directors on our Board, which may range from one to seven directors, may be changed by resolution of the Board without any further vote or action by our shareholders.
- Board Vacancies. Newly created directorships resulting from an increase in our authorized number of directors and vacancies in our Board resulting from death, resignation or removal will be filled by a majority of our Board then in office.

These provisions of Oregon law and our Articles and Bylaws could discourage potential acquisition proposals and delay or prevent a change in control or management of our Company.

### DESCRIPTION OF DEBT SECURITIES

We may issue debt securities either separately, or together with, or upon the conversion or exercise of or in exchange for, other securities described in this prospectus. Debt securities may be our senior, senior subordinated or subordinated obligations and may be issued in one or more series. Unless otherwise expressly stated in an accompanying prospectus supplement, the debt securities will represent our general, unsecured obligations and will rank equally with all of our other unsecured indebtedness.

Any debt securities that we issue will be issued under an indenture that will be entered into between us and a bank or trust company, or other trustee that is qualified to act under the Trust Indenture Act of 1939 (the “TIA”), which we select to act as trustee. A copy of the form of indenture (the “Indenture”) has been filed as an exhibit to the registration statement of which this prospectus forms a part. The Indenture may be modified by one or more supplemental indentures, which we will incorporate by reference as an exhibit to the registration statement of which this prospectus is a part. Any debt securities that we issue will include those stated in the Indenture (including any supplemental indentures that specify the terms of a particular series of debt securities) as well as those made part of the Indenture by reference to TIA, as in effect on the date of the Indenture. The Indenture will be subject to and governed by the terms of the TIA.

The following description and any description in an accompanying prospectus supplement is a summary only and is subject to, and qualified in its entirety by reference to the terms and provisions of the indentures and any supplemental indentures that we file with the SEC in connection with an issuance of any series of debt securities. You should read all of the provisions of the indentures, including the definitions of certain terms, as well as any supplemental indentures that we file with the SEC in connection with the issuance of any series of debt securities. These summaries set forth certain general terms and provisions of the securities to which any accompanying prospectus supplement may relate. The specific terms and provisions of a series of debt securities and the extent to which the general terms and provisions may also apply to a particular series of debt securities will be described in the accompanying prospectus supplement. Copies of the Indenture may be obtained from us or the Trustee.

#### General

We may issue the debt securities in one or more series, with the same or various maturities, at par or at a discount. We will describe the particular terms of each series of debt securities in an accompanying prospectus supplement relating to that series, which we will file with the SEC. Please read the accompanying prospectus supplement relating to the series of debt securities being offered for specific terms including, when applicable:

- the title of the debt securities of the series;
- the price or prices (expressed as a percentage of the principal amount thereof) at which debt securities of the series will be issued;
- any limit on the aggregate principal amount of that series of debt securities;
- whether such securities rank as senior debt securities, senior subordinated debt securities or subordinated debt securities;
- the terms and conditions, if any, upon which the debt securities of the series shall be exchanged for or converted into other of our securities or securities of another person;
- if the debt securities of the series will be secured by any collateral and, if so, a general description of the collateral and the terms and provisions of such collateral security, pledge or other agreements;
- the date or dates on which we will pay the principal of the debt securities of the series;
- the rate or rates, which may be fixed or variable, at which debt securities of the series will bear interest, if any, or the method or methods, if applicable, used to determine those rates, the date or dates, if any, from which interest on the debt securities of the series will begin to accrue, or the method or methods, if any, used to determine those dates, the dates on which the interest, if any, on the debt securities of the series will be payable and the record dates for the payment of interest;
- the manner in which the amounts of payment of principal of or interest, if any, of the debt securities of the series will be determined, if such amounts may be determined by reference to an index based on a currency or currencies or by reference to a currency exchange rate, commodity, commodity index, stock exchange index or financial index;

- if other than the corporate trust office of the Trustee, the place or places where amounts due on the debt securities of the series will be payable and where the debt securities of the series may be surrendered for registration of transfer and exchange and where notices and demands to or upon us in respect of the debt securities of the series may be served, and the method of such payment, if by wire transfer, mail or other means;
- if applicable, the period or periods within which, and the terms and conditions upon which, we may, at our option, redeem debt securities of the series;
- the terms and conditions, if applicable, upon which the holders of debt securities may require us to repurchase or redeem debt securities of the series at the option of the holders of debt securities of the series;
- the provisions, terms and conditions, if any, with respect to any sinking fund or analogous provision;
- the authorized denominations in which the debt securities of the series will be issued, if other than denominations of \$1,000 and any integral multiples of \$1,000 in excess thereof;
- whether the debt securities of the series are to be issuable, in whole or in part, in bearer form (“bearer debt securities”);
- whether any fully regulated debt securities of the series will be issued in temporary or permanent global form (“global debt securities”) and, if so, the identity of the depository for the global debt securities if other than The Depository Trust Company (“DTC”);
- any depositories, interest rate calculation agents, exchange rate calculation agents or other agents;
- the trustee for the debt securities;
- the portion of the principal amount of the debt securities of the series which will be payable upon acceleration of maturity, if other than the full principal amount;
- any addition to, or modification or deletion of, any covenant described in this prospectus or in the Indenture;
- any events of default, if not otherwise described below under “—Events of Default” and any change to the right of the holders to declare the principal of any debt securities due and payable;
- if other than U.S. dollars, the currency, currencies or currency units of denomination of the debt securities of the series, which may be any foreign currency, and if such currency denomination is a composite currency, the agency or organization, if any, responsible for overseeing such composite currency;
- if other than U.S. dollars, the currency, currencies or currency units in which the purchase price for the debt securities of the series will be payable, in which payments of principal and, if applicable, premium or interest on the debt securities of the series will be payable, and, if necessary, the manner in which the exchange rate with respect to such payments will be determined;
- any listing of the debt securities on any securities exchange;
- any additions or deletions to the defeasance or the satisfaction and discharge provisions set forth herein;
- if and under what circumstances we will pay additional amounts (“Additional Amounts”) on the debt securities of the series in respect of specified taxes, assessments or other governmental charges and, if so, whether we will have the option to redeem the debt securities of the series rather than pay the Additional Amounts;
- the priority and kind of any lien securing the debt securities and a brief identification of the principal properties subject to such lien;
- additions or deletions to or changes in the provisions relating to modification of the Indenture set forth herein; and
- any other terms of the debt securities of the series (whether or not such other terms are consistent or inconsistent with any other terms of the Indenture).

As used in this prospectus and any accompanying prospectus supplement relating to the offering of debt securities of any series, references to the principal of and premium, if any, and interest, if any, on the debt securities of the series include the payment of Additional Amounts, if any, required by the debt securities of the series to be paid in that context.

Debt securities may be issued as original issue discount securities to be sold at a substantial discount below their principal amount. In the event of an acceleration of the maturity of any original issue discount security, the amount payable to the holder upon acceleration will be determined in the manner described in the accompanying prospectus supplement. Certain U.S. federal income tax considerations applicable to original issue discount securities will be described in the accompanying prospectus supplement.

If the purchase price of any debt securities is payable in a foreign currency or if the principal of, or premium, if any, or interest, if any, on any debt securities is payable in a foreign currency, the specific terms of those debt securities and the applicable foreign currency will be specified in the accompanying prospectus supplement relating to those debt securities.

The terms of the debt securities of any series may differ from the terms of the debt securities of any other series, and the terms of particular debt securities within any series may differ from each other. Unless otherwise expressly provided in the accompanying prospectus supplement relating to any series of debt securities, we may, without the consent of the holders of the debt securities of any series, reopen an existing series of debt securities and issue additional debt securities of that series.

Unless otherwise described in an accompanying prospectus supplement relating to any series of debt securities and except to the limited extent set forth below under “—Merger, Consolidation and Transfer of Assets,” there will be no limitation upon our ability to incur indebtedness or other liabilities or that would afford holders of debt securities protection in the event of a business combination, takeover, recapitalization or highly leveraged or similar transaction involving us. Accordingly, we may in the future enter into transactions that could increase the amount of our consolidated indebtedness and other liabilities or otherwise adversely affect our capital structure or credit rating without the consent of the holders of the debt securities of any series.

#### **Registration, Transfer and Payment**

Unless otherwise indicated in the applicable prospectus supplement, each series of debt securities will be issued in registered form only, without coupons.

Unless otherwise indicated in the applicable prospectus supplement, debt securities will be issued in denominations of \$1,000 or any integral multiples of \$1,000 in excess thereof.

Unless otherwise indicated in the accompanying prospectus supplement, the debt securities will be payable and may be surrendered for registration of transfer or exchange and, if applicable, for conversion into or exchange for other securities or property, at an office or agency maintained by us in the United States. However, we may, at our option, make payments of interest on any registered debt security by check mailed to the address of the person entitled to receive that payment or by wire transfer to an account maintained by the payee with a bank located in the United States. Unless otherwise indicated in the accompanying prospectus supplement, no service charge shall be made for any registration of transfer or exchange, redemption or repayment of debt securities, or for any conversion or exchange of debt securities for other securities or property, but we may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with that transaction.

Unless otherwise indicated in the applicable prospectus supplement, we will not be required to:

- issue, register the transfer of or exchange debt securities of any series during a period beginning at the opening of business 15 days before any mailing of a notice of a redemption for the debt securities of that series selected for redemption and ending at the close of business on the day of such mailing; or
- register the transfer of or exchange any debt security, or portion of any debt security, selected for redemption, except the unredeemed portion of any registered debt security being redeemed in part.

### **Book-entry Debt Securities**

The debt securities of a series may be issued in whole or in part in the form of one or more global debt securities. Global debt securities will be deposited with, or on behalf of, a depository which, unless otherwise specified in the applicable prospectus supplement relating to the series, will be DTC. Global debt securities may be issued in either registered or bearer form and in either temporary or permanent form. Unless and until it is exchanged in whole or in part for individual certificates evidencing debt securities, a global debt security may not be transferred except as a whole by the depository to its nominee or by the nominee to the depository, or by the depository or its nominee to a successor depository or to a nominee of the successor depository.

We anticipate that global debt securities will be deposited with, or on behalf of, DTC and that global debt securities will be registered in the name of DTC's nominee, Cede & Co. All interests in global debt securities deposited with, or on behalf of, DTC will be subject to the operations and procedures of DTC and, in the case of any interests in global debt securities held through Euroclear Bank S.A./N.V. ("Euroclear") or Clearstream Banking, société anonyme ("Clearstream, Luxembourg"), the operations and procedures of Euroclear or Clearstream, Luxembourg, as the case may be. We also anticipate that the following provisions will apply to the depository arrangements with respect to global debt securities. Additional or differing terms of the depository arrangements may be described in the accompanying prospectus supplement.

DTC has advised us that it is:

- a limited-purpose trust company organized under the New York Banking Law;
- a "banking organization" within the meaning of the New York Banking Law;
- a member of the Federal Reserve System;
- a "clearing corporation" within the meaning of the New York Uniform Commercial Code; and
- a "clearing agency" registered pursuant to the provisions of Section 17A of the Exchange Act.

DTC holds securities that its participants deposit with DTC. DTC also facilitates the settlement among its participants of securities transactions, including transfers and pledges, in deposited securities through electronic computerized book-entry changes in participants' accounts, which eliminates the need for physical movement of securities certificates. Direct participants include securities brokers and dealers, banks, trust companies, clearing corporations and other organizations. Access to the DTC system is also available to others, sometimes referred to in this prospectus as indirect participants, that clear transactions through or maintain a custodial relationship with a direct participant either directly or indirectly. Indirect participants include securities brokers and dealers, banks and trust companies. The rules applicable to DTC and its participants are on file with the SEC.

Purchases of debt securities within the DTC system must be made by or through direct participants, which will receive a credit for the debt securities on DTC's records. The ownership interest of the actual purchaser or beneficial owner of a debt security is, in turn, recorded on the direct and indirect participants' records. Beneficial owners will not receive written confirmation from DTC of their purchases, but beneficial owners are expected to receive written confirmations providing details of the transactions, as well as periodic statements of their holdings, from the direct or indirect participants through which they purchased the debt securities. Transfers of ownership interests in debt securities are to be accomplished by entries made on the books of participants acting on behalf of beneficial owners.

Beneficial owners will not receive certificates representing their ownership interests in the debt securities, except under the limited circumstances described below.

To facilitate subsequent transfers, all debt securities deposited by participants with DTC will be registered in the name of DTC's nominee, Cede & Co. The deposit of debt securities with DTC and their registration in the name of Cede & Co. will not change the beneficial ownership of the debt securities. DTC has no knowledge of the actual beneficial owners of the debt securities. DTC's records reflect only the identity of the direct participants to whose accounts the debt securities are credited. Those participants may or may not be the beneficial owners. The participants are responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to direct participants, by direct participants to indirect participants and by direct and indirect participants to beneficial owners will be governed by arrangements among them, subject to any legal requirements in effect from time to time. Redemption notices shall be sent to DTC or its nominee. If less than all of the debt securities of a series are being redeemed, DTC will reduce the amount of the interest of each direct participant in the debt securities under its procedures.

securities. Under its usual procedures, DTC will mail an omnibus proxy to us after the record date. The omnibus proxy assigns the consenting or voting rights of Cede & Co. to those direct participants to whose accounts the debt securities are credited on the record date identified in a listing attached to the omnibus proxy. Principal and premium, if any, and interest, if any, on the global debt securities will be paid to Cede & Co., as nominee of DTC. DTC's practice is to credit direct participants' accounts on the relevant payment date unless DTC has reason to believe that it will not receive payments on the payment date. Payments by direct and indirect participants to beneficial owners will be governed by standing instructions and customary practices, as is the case with securities held for the account of customers in bearer form or registered in "street name." Those payments will be the responsibility of DTC's direct and indirect participants and not of DTC, us, the Trustee or any underwriters or agents involved in the offering or sale of any debt securities. Payment of principal, premium, if any, and interest, if any, to DTC is our responsibility, disbursement of payments to direct participants is the responsibility of DTC, and disbursement of payments to the beneficial owners is the responsibility of direct and indirect participants.

Except under the limited circumstances described below, beneficial owners of interests in a global debt security will not be entitled to have debt securities registered in their names and will not receive physical delivery of debt securities. Accordingly, each beneficial owner must rely on the procedures of DTC to exercise any rights under the debt securities and the Indenture.

The laws of some jurisdictions may require that some purchasers of securities take physical delivery of securities in definitive form. These laws may impair the ability to transfer or pledge beneficial interests in global debt securities.

DTC is under no obligation to provide its services as depository for the debt securities of any series and may discontinue providing its services at any time. None of us, the Trustee or any underwriters or agents involved in the offering or sale of any debt securities will have any responsibility for the performance by DTC or its participants or indirect participants under the rules and procedures governing DTC. As noted above, beneficial owners of interests in global debt securities generally will not receive certificates representing their ownership interests in the debt securities. However, if:

- DTC notifies us that it is unwilling or unable to continue as a depository for the global debt securities of any series, or if at any time DTC ceases to be a clearing agency registered under the Exchange Act (if so required by applicable law or regulation) and a successor depository for the debt securities of such series is not appointed within 90 days of such event, as the case may be, or
- an event of default under the Indenture has occurred and is continuing with respect to the debt securities of any series,

we will prepare and deliver certificates for the debt securities of that series in exchange for beneficial interests in the global debt securities of that series. Any beneficial interest in a global debt security that is exchangeable under the circumstances described in the preceding sentence will be exchangeable for debt securities in definitive certificated form registered in the names and in the authorized denominations that the depository shall direct. It is expected that these directions will be based upon directions received by the depository from its participants with respect to ownership of beneficial interests in the global debt securities.

Clearstream, Luxembourg and Euroclear hold interests on behalf of their participating organizations through customers' securities accounts in Clearstream, Luxembourg's and Euroclear's names on the books of their respective depositories, which hold those interests in customers' securities accounts in the depositories' names on the books of DTC. At the present time, Citibank, N.A. acts as U.S. depository for Clearstream, Luxembourg and JPMorgan Chase Bank, N.A. acts as U.S. depository for Euroclear (the "U.S. Depositories").

Clearstream, Luxembourg holds securities for its participating organizations ("Clearstream Participants") and facilitates the clearance and settlement of securities transactions between Clearstream Participants through electronic book-entry changes in accounts of Clearstream Participants, thereby eliminating the need for physical movement of certificates. Clearstream, Luxembourg provides to Clearstream Participants, among other things, services for safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing.

Clearstream, Luxembourg is registered as a bank in Luxembourg, and as such is subject to regulation by the Commission de Surveillance du Secteur Financier and the Banque Centrale du Luxembourg, which supervise and oversee the activities of Luxembourg banks. Clearstream Participants are financial institutions including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations, and may include any underwriters or agents involved in the offering or sale of any debt securities or their respective affiliates. Indirect access to Clearstream, Luxembourg is available to other institutions that clear through or maintain a custodial relationship with a Clearstream Participant. Clearstream, Luxembourg has established an electronic bridge with Euroclear as the operator of the Euroclear System (the "Euroclear Operator") in Brussels to facilitate settlement of trades between Clearstream, Luxembourg and the Euroclear Operator.

Distributions with respect to global debt securities held beneficially through Clearstream, Luxembourg will be credited to cash accounts of Clearstream Participants in accordance with its rules and procedures, to the extent received by the U.S. Depository for Clearstream, Luxembourg. Euroclear holds securities and book-entry interests in securities for participating organizations ("Euroclear Participants") and facilitates the clearance and settlement of securities transactions between Euroclear Participants, and between Euroclear Participants and participants of certain other securities intermediaries through electronic book-entry changes in accounts of such participants or other securities intermediaries. Euroclear provides Euroclear Participants, among other things, with safekeeping, administration, clearance and settlement, securities lending and borrowing, and related services. Euroclear Participants are investment banks, securities brokers and dealers, banks, central banks, supranationals, custodians, investment managers, corporations, trust companies and certain other organizations, and may include any underwriters or agents involved in the offering or sale of any debt securities or their respective affiliates. Non-participants in Euroclear may hold and transfer beneficial interests in a global debt security through accounts with a participant in the Euroclear System or any other securities intermediary that holds a book-entry interest in a global debt security through one or more securities intermediaries standing between such other securities intermediary and Euroclear.

Securities clearance accounts and cash accounts with the Euroclear Operator are governed by the Terms and Conditions Governing Use of Euroclear and the related Operating Procedures of the Euroclear System, and applicable Belgian law (collectively, the "Terms and Conditions"). The Terms and Conditions govern transfers of securities and cash within Euroclear, withdrawals of securities and cash from Euroclear and receipts of payments with respect to securities in Euroclear. All securities in Euroclear are held on a fungible basis without attribution of specific certificates to specific securities clearance accounts. The Euroclear Operator acts under the Terms and Conditions only on behalf of Euroclear Participants, and has no record of or relationship with persons holding through Euroclear Participants.

Distributions on interests in global debt securities held beneficially through Euroclear will be credited to the cash accounts of Euroclear Participants in accordance with the Terms and Conditions, to the extent received by the U.S. Depository for Euroclear.

Transfers between Euroclear Participants and Clearstream Participants will be effected in the ordinary way in accordance with their respective rules and operating procedures.

Cross-market transfers between direct participants in DTC, on the one hand, and Euroclear Participants or Clearstream Participants, on the other hand, will be effected through DTC in accordance with DTC's rules on behalf of Euroclear or Clearstream, Luxembourg, as the case may be, by its U.S. Depository; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, Luxembourg, as the case may be, by the counterparty in such system in accordance with the applicable rules and procedures and within the established deadlines (European time) of such system. Euroclear or Clearstream, Luxembourg, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to its U.S. Depository to take action to effect final settlement on its behalf by delivering or receiving interests in global debt securities in DTC, and making or receiving payment in accordance with normal procedures for same-day fund settlement applicable to DTC. Euroclear Participants and Clearstream

Participants may not deliver instructions directly to their respective U.S. Depositories.

Due to time zone differences, the securities accounts of a Euroclear Participant or Clearstream Participant purchasing an interest in a global debt security from a direct participant in DTC will be credited, and any such crediting will be reported to the relevant Euroclear Participant or Clearstream Participant, during the securities settlement processing day (which must be a business day for Euroclear or Clearstream, Luxembourg) immediately following the settlement date of DTC. Cash received in Euroclear or Clearstream, Luxembourg as a result of sales of interests in a global debt security by or through a Euroclear Participant or Clearstream Participant to a direct participant in DTC will be received with value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream, Luxembourg cash account only as of the business day for Euroclear or Clearstream, Luxembourg following DTC's settlement date.

Euroclear and Clearstream, Luxembourg are under no obligation to perform or to continue to perform the foregoing procedures and such procedures may be discontinued at any time without notice. None of us, the Trustee or any underwriters or agents involved in the offering or sale of any debt securities will have any responsibility for the performance by Euroclear or Clearstream, Luxembourg or their respective participants of their respective obligations under the rules and procedures governing their operations.

The information in this section concerning DTC, Euroclear and Clearstream, Luxembourg and their book-entry systems has been obtained from sources that we believe to be reliable, but we take no responsibility for the accuracy of that information.

### **Redemption and Repurchase**

The debt securities of any series may be redeemable at our option, or may be subject to mandatory redemption by us, as required by a sinking fund or otherwise. In addition, the debt securities of any series may be subject to repurchase or repayment by us, at the option of the holders. The accompanying prospectus supplement will describe the terms, the times and the prices regarding any optional or mandatory redemption by us or any repurchase or repayment at the option of the holders of any series of debt securities.

### **Conversion and Exchange**

The terms, if any, on which debt securities of any series are convertible into or exchangeable for our common shares or any other securities or property will be set forth in the accompanying prospectus supplement. Such terms may include provisions for conversion or exchange, which may be mandatory, at the option of the holders or at our option. Unless otherwise expressly stated in the accompanying prospectus supplement, references in this prospectus and any accompanying prospectus supplement to the conversion or exchange of debt securities of any series for our common stock or other securities or property shall be deemed not to refer to or include any exchange of any debt securities of a series for other debt securities of the same series.

### **Merger, Consolidation and Transfer of Assets**

Unless otherwise specified in the accompanying prospectus supplement, the Indenture provides that we will not, directly or indirectly, in any transaction or series of related transactions, consolidate or merge with another person (whether or not we are the surviving corporation), or sell, assign, transfer, lease or convey or otherwise dispose of all or substantially all of the property and assets of us and our subsidiaries taken as a whole, to another person unless:

- we shall be the continuing entity or the resulting, surviving or transferee person shall (i) be a corporation, partnership, limited liability company, trust or other entity organized and validly existing under the laws of any domestic or foreign jurisdiction and (ii) shall expressly assume by supplemental indenture reasonably satisfactory in form to the Trustee all of our obligations under the debt securities and the Indenture (including, without limitation, the obligation to convert or exchange any debt securities that are convertible into or exchangeable for other securities or property in accordance with the provisions of such debt securities and the Indenture);
- immediately after giving effect to a transaction described above, no event of default under the Indenture, and no event which, after notice or lapse of time or both would become an event of default under the Indenture, shall exist; and
- the Trustee shall have received the officers' certificate and opinion of counsel called for by the Indenture.

In the case of any such merger, consolidation, sale, assignment, transfer, lease, conveyance or other disposition in which we are not the continuing entity and upon execution and delivery by the successor person of the supplemental indenture described above, such successor person shall succeed to, and be substituted for us and may exercise every right and power of us under the Indenture with the same effect as if such successor person had been named as us therein, and we shall be automatically released and discharged from all obligations and covenants under the Indenture and the debt securities issued under that indenture.

### **Events of Default**

Unless otherwise specified in the accompanying prospectus supplement, any of the following events will be events of default with respect to the debt securities of any series:

- default in payment of any interest on, or any Additional Amounts payable in respect of, any of the debt securities of a series when due and payable, and continuance of such default for a period of 30 days;
- default in payment of any principal of, or premium, if any, on, or any Additional Amounts, if any, payable in respect of any principal of or premium, if any, on, any of the debt securities of a series when due (whether at maturity, upon redemption, upon repayment or repurchase at the option of the holder or otherwise and whether payable in cash or common shares or other securities or property);
- default in the performance or breach of any covenant (other than those events defaults referenced in the first and second bullet points above) for the benefit of the holders of the debt securities of a series for 90 days after receipt of written notice of such default given by the Trustee or holders of not less than 25% in principal amount of the debt securities of such series;
- specified events of bankruptcy, insolvency or reorganization with respect to us; or
- any other event of default established for the debt securities of that series.

No event of default with respect to any particular series of debt securities necessarily constitutes an event of default with respect to any other series of debt securities.

The Indenture provides that the holders of a majority in aggregate principal amount of the outstanding debt securities of any series may waive our compliance with the provisions described above under “—Merger, Consolidation and Transfer of Assets” and certain other provisions of the Indenture and, if specified in the accompanying prospectus supplement relating to such series of debt securities, any additional covenants applicable to the debt securities of such series. The Indenture also provides that holders of not less than a majority in aggregate of principal amount of the then outstanding debt securities of any series may waive an existing default or event of default with respect to the debt securities of such series, except a default in payment of principal of, or premium, if any, or interest, if any, or Additional Amounts, if any, or sinking fund payments, if any, on debt securities of that series or, in the case of any debt securities which are convertible into or exchangeable for other securities or property, a default in any such conversion or exchange, or a default in respect of a covenant or provision which cannot be modified or amended without the consent of the holder of each outstanding debt security of the affected series. As used in this paragraph, the term “default” means any event which is, or after notice or lapse of time or both would become, an event of default with respect to the debt securities of any series.

The Indenture also provides that if an event of default (other than an event of default specified in the fourth and fifth bullet points of the third preceding paragraph) occurs and is continuing with respect to any series of debt securities, either the Trustee or the holders of more than 25% in principal amount of the debt securities of that series then outstanding may declare the principal of, or if debt securities of that series are original issue discount securities, such lesser amount as may be specified in the terms of that series of debt securities, and accrued and unpaid interest, if any, on all the debt securities of that series to be due and payable immediately. The Indenture also provides that if an event of default specified in the fourth and fifth bullet points of the third preceding paragraph occurs with respect to any series of debt securities, then the principal of, or if debt securities of that series are original issue discount securities, such lesser amount as may be specified in the terms of that series of debt securities, and accrued and unpaid interest, if any, on all the debt securities of that series will automatically become and be immediately due and payable without any declaration or other action on the part of the Trustee or any holder of the debt securities of that series. However, upon specified conditions, the holders of a majority in principal amount of the debt securities of a series then outstanding may rescind and annul an acceleration of the debt securities of that series and its consequences.

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Subject to the provisions of the TIA requiring the Trustee, during the continuance of an event of default under the Indenture, to act with the requisite standard of care, the Trustee is under no obligation to exercise any of its rights or powers under the Indenture at the request or direction of any of the holders of debt securities of any series unless those holders have offered the Trustee indemnity reasonably satisfactory to the Trustee against the costs, fees and expenses and liabilities which might be incurred in compliance with such request or direction. Subject to the foregoing, holders of a majority in principal amount of the outstanding debt securities of any series issued under the Indenture have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee under the Indenture with respect to that series. The Indenture requires our annual filing with the Trustee of a certificate which states whether or not we are in default under the terms of the Indenture.

No holder of any debt securities of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to the Indenture, or for the appointment of a receiver or trustee, or for any other remedy under the Indenture, unless:

- the holder gives written notice to the Trustee of a continuing event of default with respect to the debt securities of such series;
- the holders of more than 25% in aggregate principal amount of the outstanding debt securities of such series make a written request to the Trustee to institute proceedings in respect of such event of default;
- the holder or holders offer to the Trustee indemnity reasonably satisfactory to the Trustee against the costs, fees and expenses and liabilities to be incurred in compliance with such request;
- the Trustee for 90 days after its receipt of such notice, request and offer of indemnity fails to institute any such proceeding; and
- no direction inconsistent with such written request is given to the Trustee during such 90 day period by the holders of a majority of the aggregate principal amount of the then outstanding debt securities of such series.

Notwithstanding any other provision of the Indenture, the holder of a debt security will have the right, which is absolute and unconditional, to receive payment of the principal of and premium, if any, and interest, if any, on that debt security on the respective due dates for those payments and, in the case of any debt security which is convertible into or exchangeable for other securities or property, to convert or exchange, as the case may be, that debt security in accordance with its terms, and to institute suit for the enforcement of those payments and any right to effect such conversion or exchange, and this right shall not be impaired without the consent of the holder.

#### **Modification, Waivers and Meetings**

From time to time, we and the Trustee, with the consent of the holders of a majority in principal amount of the outstanding debt securities of each series issued under the Indenture and affected by a modification or amendment, may modify, amend, supplement or waive compliance with any of the provisions of the Indenture or of the debt securities of the applicable series or the rights of the holders of the debt securities of that series under the Indenture. However, unless otherwise specified in the accompanying prospectus supplement, no such modification, amendment, supplement or waiver may, among other things:

- change the amount of debt securities of any series issued under the Indenture whose holders must consent to any amendment, supplement or waiver;
- reduce the rate of or extend the time for payment of interest (including default interest) on any debt securities issued under the Indenture;
- reduce the principal or change the stated maturity of the principal of, or postpone the date fixed for, the payment of any sinking fund or analogous obligations with respect to any debt securities issued under the Indenture;
- reduce the amount of principal of any original issue discount securities that would be due and payable upon an acceleration of the maturity thereof;

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- waive any default or event of default in the payment of the principal of or interest, if any, on any debt securities (except a rescission of acceleration of the debt securities by the holders of at least a majority in principal amount of the outstanding series of such debt securities and a waiver of the payment default that resulted from such acceleration);
- change any place where or the currency in which debt securities are payable;



- make any changes to the provisions of the Indenture relating to waivers of past defaults, rights of holders of debt securities to receive payment or limitations on amendments to the Indenture without the consent of all holders; or
- waive any redemption payment with respect to a debt security of such series;

without in each case obtaining the consent of the holder of each outstanding debt security issued under the Indenture affected by the modification or amendment.

From time to time, we and the Trustee, without the consent of the holders of any debt securities issued under the Indenture, may modify, amend, supplement or waive compliance with any provisions of the Indenture, among other things:

- to cure any ambiguity, defect or inconsistency;
- to provide for uncertificated debt securities in addition to or in place of certificated debt securities;
- to evidence the succession of another person to us under the Indenture and the assumption by that successor of our covenants, contained in the Indenture and in the debt securities;
- to add any additional events of default with respect to all or any series of debt securities;
- to secure the debt securities of any series pursuant to the requirements of any covenant on liens in respect of such series or otherwise;
- to change or eliminate any provision of the Indenture, or to add any new provisions to the Indenture, provided that any such change, elimination or addition (A) shall (i) not apply to any debt securities outstanding on the date of such supplemental indenture or (ii) modify the rights of the holder of any debt security with respect to such provision in effect prior to the date of such supplemental indenture or (B) shall become effective only when no debt security of such series remains outstanding;
- to make any change that would provide additional rights or benefits to holders of the debt securities of such series or that does not adversely affect the holders' rights under the Indenture in any material respect;
- to comply with requirements of the SEC in order to effect or maintain the qualification of the Indenture under the TIA;
- to provide for the issuance of and establish the form and terms and conditions of debt securities of any series as permitted by the Indenture;
- to evidence and provide for the acceptance of the appointment of a successor trustee in respect of the debt securities of one or more series or to add to or change any of the provisions of the Indenture as are necessary to provide for or facilitate the administration of the Indenture by more than one trustee;
- to add additional guarantors or obligors under the Indenture; or
- to conform any provision of the Indenture or any debt securities or security documents to the description thereof reflected in any prospectus (including this prospectus), accompanying prospectus supplement, offering memorandum or similar offering document used in connection with the initial offering or sale of such debt securities to the extent that such description was intended to be a verbatim recitation of a provision of the Indenture, the debt securities or security documents.

#### **Discharge, Defeasance and Covenant Defeasance**

Unless otherwise provided in the applicable prospectus supplement, upon our direction, the Indenture shall cease to be of further effect with respect to any series of debt securities issued under the Indenture specified by us, subject to the survival of specified provisions of the Indenture (including the obligation to pay Additional Amounts, if any, and the obligation, if applicable, to exchange or convert debt securities of that series into other securities or property in accordance with their terms) when

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- either:
  - o all of the debt securities of such series that have been authenticated, except lost, stolen or destroyed debt securities that have been replaced or paid and debt securities for whose payment money has theretofore been deposited in trust and thereafter repaid to us, have been delivered to the Trustee for cancellation; or
  - o all of the debt securities of such series that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year or have been called for redemption and we have irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the holders of such debt securities, cash in U.S. dollars, non-callable U.S. government securities or a combination thereof, in such amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on such debt securities not delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;
- no default or event of default has occurred and is continuing on the date of such deposit (other than a default or event of default resulting from the borrowing of funds to be applied to such deposit or the grant of any lien securing such borrowing or any similar and simultaneous deposit relating to other indebtedness and, in each case, the granting of liens in connection therewith) and the deposit will not result in a breach or violation of, or constitute a default under, any material instrument to which we are a party or by which we are bound (other than a breach, violation or default resulting from the borrowing of funds to be applied to such deposit or the grant of any lien securing such borrowing or any similar and simultaneous deposit relating to other indebtedness and, in each case, the granting of liens in connection therewith);
- we have paid or caused to be paid all sums payable by us under the Indenture; and
- we have delivered irrevocable instructions to the Trustee for such debt securities to apply the deposited money toward the payment of such debt securities at maturity or on the redemption date, as the case may be.

Unless otherwise provided in the accompanying prospectus supplement, we may elect with respect to any series of debt securities and at any time, to have our obligations discharged with respect to the outstanding debt securities of such series ("Legal Defeasance"). Legal Defeasance means that we shall be deemed to have paid and discharged the entire indebtedness represented by the debt securities of such series, and the Indenture shall cease to be of further effect as to all outstanding debt securities of such series, except as to:

- rights of holders of outstanding debt securities of such series to receive payments in respect of the principal of and interest, if any, on the debt securities of such series when such payments are due solely out of the trust funds referred to below;

- our obligations with respect to the debt securities of such series concerning issuing temporary debt securities of such series, registration of debt securities of such series, mutilated, destroyed, lost or stolen debt securities of such series, and the maintenance of an office or agency for payment and money for security payments held in trust;
- the rights, powers, trusts, duties and immunities of the Trustee for such debt securities of such series under the Indenture, and the obligations of us in connection therewith; and
- the Legal Defeasance provisions of the Indenture.

In addition, we may, at our option and at any time, elect to have our obligations released with respect to substantially all of the covenants under the Indenture, except as described otherwise in the Indenture (“Covenant Defeasance”), and thereafter any omission to comply with such obligations shall not constitute a default or event of default with respect to the debt securities of such series. In the event Covenant Defeasance occurs, certain events of default will no longer constitute an event of default with respect to the debt securities of such series. Covenant Defeasance will not be effective until such bankruptcy events no longer apply. We may exercise our Legal Defeasance option regardless of whether we have previously exercised Covenant Defeasance.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- we must irrevocably deposit with the Trustee, as trust funds, in trust solely for the benefit of the holders, cash in U.S. dollars, non-callable U.S. government securities or a combination thereof, in such amounts as will be sufficient in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of and interest on the debt securities of such series on the stated date for payment or on the redemption date of the principal or installment of principal of or interest on the debt securities of such series;
- in the case of Legal Defeasance, we shall have delivered to the Trustee an opinion of counsel in the United States confirming that:
  - o we have received from, or there has been published by, the Internal Revenue Service a ruling; or
  - o since the date of the issuance of the debt securities of such series, there has been a change in the applicable U.S. federal income tax law;

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in either case to the effect that, and based thereon this opinion of counsel shall confirm that, subject to customary assumptions and exclusions, the holders and beneficial owners of debt securities of such series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

- in the case of Covenant Defeasance, we shall have delivered to the Trustee an opinion of counsel in the United States reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions, the holders and beneficial owners of the debt securities of such series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- no default or event of default shall have occurred and be continuing on the date of such deposit (other than a default or event of default resulting from the borrowing of funds to be applied to such deposit or the grant of any lien securing such borrowing or any similar and simultaneous deposit relating to other indebtedness and, in each case, the granting of liens in connection therewith);
- such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under any material agreement or instrument (other than the Indenture) to which we or any of our subsidiaries is a party or by which we or any of our subsidiaries is bound (other than that resulting from the borrowing of funds to be applied to such deposit or the grant of any lien securing such borrowing or any similar and simultaneous deposit relating to other indebtedness and, in each case, the granting of liens in connection therewith);
- we shall have delivered to the Trustee an officers’ certificate stating that the deposit was not made by it with the intent of preferring the holders of debt securities of such series over any other of our creditors or with the intent of defeating, hindering, delaying or defrauding any of our creditors or others; and
- we shall have delivered to the Trustee an officers’ certificate and an opinion of counsel (which opinion of counsel may be subject to customary assumptions and exclusions), each stating that the conditions provided for in, in the case of the officers’ certificate, clauses (a) through (f) and, in the case of the opinion of counsel, clauses (b) and/or (c) and (e) of this paragraph have been complied with.

If the funds deposited with the Trustee to effect Covenant Defeasance are insufficient to pay the principal of and interest on the debt securities of such series when due, then our obligations and the obligations of our subsidiaries, if applicable, under the Indenture will be revived and no such defeasance will be deemed to have occurred.

#### **Governing Law**

The Indenture and the debt securities will be governed by, and construed in accordance with, the laws of the State of New York.

#### **Regarding the Trustee**

We will identify the trustee with respect to any series of debt securities in the prospectus supplement relating to the applicable debt securities. The TIA limits the rights of a trustee, if the trustee becomes a creditor of ours to obtain payment of claims or to realize on property received by it in respect of those claims, as security or otherwise. Any trustee is permitted to engage in other transactions with us and our subsidiaries from time to time. However, if a trustee acquires any conflicting interest it must eliminate the conflict upon the occurrence of an event of default under the Indenture or resign as trustee.

The holders of a majority in principal amount of the then outstanding debt securities of any series may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee.

If an event of default occurs and is continuing, the Trustee will be required to use the degree of care and skill of a prudent man in the conduct of his own affairs. The Trustee will become obligated to exercise any of its powers under the Indenture at the request of any of the holders of debt securities only after those holders have offered the Trustee indemnity satisfactory to it.

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## DESCRIPTION OF WARRANTS

The following summarizes the general terms of stock and debt warrants that we may offer. The particular terms of any stock and debt warrants will be described in an accompanying prospectus supplement. The description below and in any accompanying prospectus supplement is not complete. You should read the form of warrant agreement and any warrant certificate that we will file with the SEC.

### Warrants to Purchase Capital Stock

If we offer stock warrants, the prospectus supplement will describe the terms of the stock warrants, including:

- The offering price, if any;
- If applicable, the designation and terms of any preferred stock purchasable upon exercise of preferred stock warrants;
- The number of shares of common stock or preferred stock purchasable upon exercise of one stock warrant and the initial price at which the shares may be purchased upon exercise;
- The dates on which the right to exercise the stock warrants begins and expires;
- U.S. federal income tax consequences;
- Call provisions, if any;
- The currencies in which the offering price and exercise price are payable; and
- If applicable, the antidilution provisions of the stock warrants.

The shares of common stock or preferred stock we issue upon exercise of the stock warrants will, when issued in accordance with the stock warrant agreement, be validly issued, fully paid and nonassessable.

### Exercise of Warrants to Purchase Capital Stock

You may exercise stock warrants by surrendering to the stock warrant agent the stock warrant certificate, which indicates your election to exercise all or a portion of the stock warrants evidenced by the certificate. Surrendered stock warrant certificates must be accompanied by payment of the exercise price in the form of cash or check. The stock warrant agent will deliver certificates evidencing duly exercised stock warrants to the transfer agent. Upon receipt of the certificates, the transfer agent will deliver a certificate representing the number of shares of Common Stock or preferred stock purchased. If you exercise fewer than all the stock warrants evidenced by any certificate, the stock warrant agent will deliver a new stock warrant certificate representing the unexercised stock warrants.

### No Rights as Shareholders

Holders of stock warrants are not entitled to vote, to consent, to receive dividends or to receive notice as shareholders with respect to any meeting of shareholders or to exercise any rights whatsoever as our shareholders.

### Warrants to Purchase Debt Securities

If we offer debt warrants, the accompanying prospectus supplement will describe the terms of the warrants, including:

- The offering price, if any;
- The designation, aggregate principal amount and terms of the debt securities purchasable upon exercise of the warrants and the terms of the indenture under which the debt securities will be issued;
- If applicable, the designation and terms of the debt securities with which the debt warrants are issued and the number of debt warrants issued with each debt security;
- If applicable, the date on and after which the debt warrants and the related securities will be separately transferable;
- The principal amount of debt securities purchasable upon exercise of one debt warrant, and the price at which the principal amount of debt securities may be purchased upon exercise;
- The dates on which the right to exercise the debt warrants begins and expires;

- U.S. federal income tax consequences;
- Whether the warrants represented by the debt warrant certificates will be issued in registered or bearer form;
- The currencies in which the offering price and exercise price are payable; and
- If applicable, any antidilution provisions.

You may exchange debt warrant certificates for new debt warrant certificates of different denominations and may present debt warrant certificates for registration of transfer at the corporate trust office of the debt warrant agent, which will be listed in an accompanying prospectus supplement.

### Exercise of Warrants to Purchase Debt Securities

You may exercise debt warrants by surrendering the debt warrant certificate at the corporate trust office of the debt warrant agent, with payment in full of the exercise price. Upon the exercise of debt warrants, the debt warrant agent will, as soon as practicable, deliver the debt securities in authorized denominations in accordance with your instructions and at your sole cost and risk. If less than all the debt warrants evidenced by the debt warrant certificate are exercised, the agent will issue a new debt warrant certificate for the remaining amount of debt warrants.

#### **No Rights as Holders of Debt Securities**

Warrantheolders do not have any of the rights of holders of debt securities, except to the extent that the consent of warrantheolders may be required for certain modifications of the terms of an indenture or form of the debt security, as the case may be, and the series of debt securities issuable upon exercise of the debt warrants. In addition, warrantheolders are not entitled to payments of principal of and interest, if any, on the debt securities.

#### **DESCRIPTION OF RIGHTS**

We may issue or distribute rights to our shareholders for the purchase of shares of our common stock, preferred stock or debt securities. We may issue rights independently or together with other securities, and the rights may be attached to or separate from any offered or distributed securities and may or may not be transferrable by the shareholder receiving the rights. In connection with any offering of rights, we may enter into a standby underwriting, backstop or other arrangement with one or more underwriters or other persons pursuant to which the underwriters or other persons may agree to purchase any securities remaining unsubscribed for after such rights offering. Each series of rights will be issued under a separate rights agreement to be entered into between us and a bank or trust company, as rights agent, all as set forth in an accompanying prospectus supplement relating to the particular issue of rights. The rights agent will act solely as an agent of the Company in connection with the certificates relating to the rights of such series and will not assume any obligation or relationship of agency or trust for or with any holders of rights certificates or beneficial owners of rights.

The following summary of material provisions of the rights are subject to, and qualified in their entirety by reference to, all the provisions of the certificates representing rights applicable to a particular series of rights. The terms of any rights offered or distributed under an accompanying prospectus supplement may differ from the terms described below. We urge you to read the accompanying prospectus supplement as well as the complete certificates representing the rights that contain the terms of the rights. The particular terms of any issue of rights will be described in an accompanying prospectus supplement relating to the issue, and may include:

- in the case of a distribution of rights to our shareholders, the date for determining the shareholders entitled to the rights distribution;
- in the case of a distribution of rights to our shareholders, the number of rights issued or to be issued to each shareholder;
- the aggregate number of shares of common stock, preferred stock or debt securities purchasable upon exercise of such rights and the exercise price;
- the aggregate number of rights being issued;
- the extent to which the rights are transferrable;
- the date on which the holder's ability to exercise such rights shall commence and the date on which such right shall expire;
- the extent to which the rights may include an over-subscription privilege with respect to unsubscribed securities;
- a discussion of material federal income tax considerations;
- any other material terms of such rights, including terms, procedures and limitations relating to the distribution, exchange and exercise of such rights; and
- if applicable, the material terms of any standby underwriting, backstop or purchase arrangement which may be entered into by the Company in connection with the offering, issuance or distribution of rights.

Each right will entitle the holder of rights to purchase for cash the number of shares of common stock or preferred stock or the principal amount of debt securities at the exercise price provided in the accompanying prospectus supplement. Rights may be exercised at any time up to the close of business on the expiration date for the rights provided in the accompanying prospectus supplement. After the close of business on the expiration date, all unexercised rights will be void and of no further force and effect.

Holders may exercise rights as described in the accompanying prospectus supplement. Upon receipt of payment and the rights certificate properly completed and duly executed at the corporate trust office of the rights agent or any other office indicated in an accompanying prospectus supplement, we will, as soon as practicable, forward the shares of common stock or preferred stock or principal amount of debt securities purchased upon exercise of the rights. If less than all of the rights issued in any rights offering are exercised, we may offer any unsubscribed shares of common stock or preferred stock or principal amount of debt securities directly to persons, which may be to or through agents, underwriters or dealers or through a combination of such methods, including pursuant to standby underwriting arrangements, as described in the accompanying prospectus supplement.

Until any rights to purchase common stock or preferred stock are exercised, the holders of the any rights will not have any rights of holders of the underlying common stock or preferred stock, including any rights to receive dividends or payments upon any liquidation, dissolution or winding up on the common stock or preferred stock, if any. Until any rights to purchase debt securities are exercised, the holder of any rights will not have any rights of holders of the debt securities that can be purchased upon exercise, including any rights to receive payments of principal, premium or interest on the underlying debt securities or to enforce covenants in the applicable indenture.

#### **DESCRIPTION OF UNITS**

As may be specified in an accompanying prospectus supplement, we may issue units consisting of one or more of our securities registered hereby. An accompanying prospectus supplement will describe:

- The terms of the units and of the securities comprising the units, including whether and under what circumstances the securities comprising the units may be traded separately;
- A description of the terms of any unit agreement governing the units; and

- A description of the provisions for the payment, settlement, transfer or exchange of the units.

#### PLAN OF DISTRIBUTION

We may sell the securities from time to time pursuant to underwritten public offerings, negotiated transactions, block trades or a combination of these methods. We may sell the securities to or through underwriters or dealers, through agents, through broker-dealers, or directly to one or more purchasers. We may distribute securities from time to time in one or more transactions:

- at a fixed price or prices, which may be changed;
- at market prices prevailing at the time of sale;
- at prices related to such prevailing market prices; or
- at negotiated prices.

We may also sell equity securities covered by this registration statement in an “at the market offering” as defined in Rule 415 under the Securities Act. Such offering may be made into an existing trading market for such securities in transactions at other than a fixed price, either:

- on or through the facilities of The Nasdaq Global Market or any other securities exchange or quotation or trading service on which such securities may be listed, quoted or traded at the time of sale; and/or
- to or through a market maker otherwise than on The Nasdaq Global Market or such other securities exchanges or quotation or trading services.

Such at-the-market offerings, if any, may be conducted by underwriters acting as principal or agent.

A prospectus supplement or supplements (and any related free writing prospectus that we may authorize to be provided to you) will describe the terms of the offering of the securities, including, to the extent applicable:

- the name or names of any underwriters, dealers or agents, if any;
- the purchase price of the securities and the proceeds we will receive from the sale;
- any over-allotment options under which underwriters may purchase additional securities from us;
- any agency fees or underwriting discounts and other items constituting agents’ or underwriters’ compensation;
- any public offering price;
- any discounts or concessions allowed or reallocated or paid to dealers; and
- any securities exchange or market on which the securities may be listed.

Only underwriters named in the prospectus supplement are underwriters of the securities offered by the prospectus supplement.

If underwriters are used in the sale, they will acquire the securities for their own account and may resell the securities from time to time in one or more transactions at a fixed public offering price or at varying prices determined at the time of sale. The obligations of the underwriters to purchase the securities will be subject to the conditions set forth in the applicable underwriting agreement. We may offer the securities to the public through underwriting syndicates represented by managing underwriters or by underwriters without a syndicate. Subject to certain conditions, the underwriters will be obligated to purchase all of the securities offered by the prospectus supplement. Any public offering price and any discounts or concessions allowed or reallocated or paid to dealers may change from time to time.

We may sell the securities directly, in which case no underwriters or agents would be involved, or we may sell the securities through agents designated by us from time to time. If agents are used in the sale of the securities, the agent will not purchase any securities for its own account but will arrange for the sale of the securities. Unless otherwise indicated in the prospectus supplement, any agent will be acting on a “best efforts” basis for the period of its appointment. We may negotiate and pay agent’s fees or commissions for their services. If the securities are sold directly by us, we may sell the securities to institutional investors or others who may be deemed to be underwriters within the meaning of the Securities Act, with respect to any sale of those securities.

We may authorize agents or underwriters to solicit offers by certain types of institutional investors to purchase securities from us at the public offering price set forth in the prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a specified date in the future. We will describe the conditions to these contracts and the commissions we must pay for solicitation of these contracts in the prospectus supplement.

We may issue the securities as a dividend or distribution or in a subscription rights offering to our existing security holders. If we offer securities in a subscription rights offering to our existing security holders, then we may enter into a standby underwriting agreement with dealers, acting as standby underwriters. We may pay the standby underwriters a commitment fee for the securities they commit to purchase on a standby basis. If we do not enter into a standby underwriting arrangement, we may retain a dealer-manager to manage a subscription rights offering for us.

In compliance with the guidelines of the Financial Industry Regulatory Authority, Inc. (“FINRA”), all discounts, commissions or agency fees or other items constituting underwriting compensation to be received by any FINRA member or independent broker-dealer will be disclosed in an accompanying prospectus supplement.

We may provide agents and underwriters with indemnification against civil liabilities related to this offering, including liabilities under the Securities Act, or contribution with respect to payments that the agents or underwriters may make with respect to these liabilities. Agents and underwriters may engage in transactions with, or perform services for, us in the ordinary course of business.

All securities we offer, other than common stock which is listed on The Nasdaq Global Market under the symbol “FUV,” will be new issues of securities with no established trading market. Any underwriters may make a market in these securities, but will not be obligated to do so and may discontinue any market making at any time without notice. We cannot guarantee the liquidity of the trading markets for any securities.

Any underwriter may engage in overallotment, stabilizing transactions, short covering transactions and penalty bids. Overallotment involves sales in excess of the offering size, which create a short position. Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. Short covering transactions involve purchases of the securities in the open market after the distribution is completed to cover short positions. Penalty bids permit the underwriters to reclaim a selling concession from a dealer when the securities originally sold by the dealer are purchased in a stabilizing or covering transaction to cover short positions. Those activities may cause the price of the securities to be higher than it would otherwise be. If commenced, the underwriters may discontinue any of the activities at any time. These transactions may be effected on any exchange or over-the-counter market or otherwise.

Any underwriters who are qualified market makers on The Nasdaq Global Market may engage in passive market making transactions in the securities on The Nasdaq Global Market in accordance with Rule 103 of Regulation M, during the business day prior to the pricing of the offering, before the commencement of offers or sales of the securities. Passive market makers must comply with applicable volume and price limitations and must be identified as passive market makers. In general, a passive market maker must display its bid at a price not in excess of the highest independent bid for such security; if all independent bids are lowered below the passive market maker’s bid, however, the passive market maker’s bid must then be lowered when certain purchase limits are exceeded. Passive market making may stabilize the market price of the securities at a level above that which might otherwise prevail in the open market and, if commenced, may be discontinued at any time.

Under Rule 15c6-1 of the Exchange Act, trades in the secondary market generally are required to settle in two business days, unless the parties to any such trade expressly agree otherwise. The accompanying prospectus supplement may provide that the original issue date for your securities may be more than two scheduled business days after the trade date for your securities. Accordingly, in such a case, if you wish to trade securities on any date prior to the second business day before the original issue date for your securities, you will be required, by virtue of the fact that your securities initially are expected to settle in more than two scheduled business days after the trade date for your securities, to make alternative settlement arrangements to prevent a failed settlement.

The specific terms of any lock-up provisions in respect of any given offering will be described in the accompanying prospectus supplement.

Any underwriters, dealers and agents, and their associates and affiliates may engage in transactions with, or perform services, including investment banking services, for us or one or more of our respective affiliates in the ordinary course of business for which they receive compensation. We will describe in an accompanying prospectus supplement the identity of any such underwriters, dealers and agents and the nature of any such relationships. If at the time of any offering made under this prospectus a member of FINRA participating in the offering has a “conflict of interest” as defined in FINRA’s Rule 5121, that offering will be conducted in accordance with the relevant provisions of FINRA Rule 5121.

The anticipated date of delivery of offered securities will be set forth in the accompanying prospectus supplement relating to each offer.

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#### USE OF PROCEEDS

Unless otherwise specified in an accompanying prospectus supplement, we currently intend to use the net proceeds from the sale of our securities for working capital and general corporate purposes. Additional details regarding the use of the net proceeds from any particular sale of our securities will be set forth in an accompanying prospectus supplement. Pending their use, we intend to invest the net proceeds from the sale of our securities in high-quality, short-term, interest-bearing securities.

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#### LEGAL MATTERS

The validity of the securities being offered hereby will be passed upon by Nelson Mullins Riley & Scarborough LLP.

#### EXPERTS

The financial statements of Arcimoto, Inc. as of December 31, 2020 and 2019 and for the years ended December 31, 2020 and 2019 have been incorporated by reference herein in reliance upon the report of *dbbmckemmon*, independent registered public accounting firm, incorporated by reference herein, and upon the authority of this firm as experts in accounting and auditing.

#### WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-3 under the Securities Act with respect to the securities offered by this prospectus. This prospectus, which is part of the registration statement, omits certain information, exhibits, schedules and undertakings set forth in the registration statement. For further information pertaining to us and the securities offered in this prospectus, reference is made to that registration statement and the exhibits and schedules to the registration statement. Statements contained in this prospectus as to the contents or provisions of any documents referred to in this prospectus are not necessarily complete, and in each instance where a copy of the document has been filed as an exhibit to the registration statement, reference is made to the exhibit for a more complete description of the matters involved.

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available for free to the public over the Internet on the SEC’s website at [www.sec.gov](http://www.sec.gov). Our common stock is listed on The Nasdaq Global Market under the symbol “FUV.” General information about our company, including our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as well as any amendments and exhibits to those reports, are available free of charge through our website at [www.arcimoto.com](http://www.arcimoto.com) as soon as reasonably practicable after we file them with, or furnish them to, the SEC. Information on, or that can be accessed through, our website is not incorporated into this prospectus or other securities filings and is not a part of these filings.

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The SEC allows us to “incorporate by reference” information into this prospectus, which means that we can disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. Because we are incorporating by reference future filings with the SEC, this prospectus and the accompanying prospectus supplement are continually updated and those future filings may modify or supersede some of the information included or incorporated by reference in this prospectus and the accompanying prospectus supplement. This means that you must look at all of the SEC filings that we incorporate by reference to determine if any of the statements in this prospectus, the accompanying prospectus supplement or in any document previously incorporated by reference have been modified or superseded. Our periodic reports are filed with the SEC under SEC File Number 001-38213.

We hereby incorporate by reference the following documents:

- our Annual Report on Form 10-K for the year ended December 31, 2020 filed with the SEC on [March 31, 2021](#), as amended [April 5, 2021](#);
- our Quarterly Reports on Form 10-Q for the quarters ended [March 31, 2021](#), [June 30, 2021](#) and [September 30, 2021](#) filed with the SEC on May 17, 2021, August 16, 2021 and November 15, 2021, respectively;
- those portions of our for our Definitive Proxy Statement on [Schedule 14A](#) for our 2021 Annual Meeting of Shareholders filed with the SEC on April 29, 2021 that are incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2020;
- our Current Reports on Form 8-K filed with the SEC on [January 6, 2021](#), [January 8, 2021](#), [January 8, 2021](#), [January 22, 2021](#), [January 25, 2021](#), [January 25, 2021](#), [January 25, 2021](#), [February 8, 2021](#), [February 9, 2021](#), [March 31, 2021](#), [April 6, 2021](#), [April 20, 2021](#), [April 21, 2021](#), [April 22, 2021](#), [May 17, 2021](#), [June 15, 2021](#), [August 16, 2021](#), [August 17, 2021](#), [August 20, 2021](#), [October 12, 2021](#), [October 13, 2021](#), [November 8, 2021](#), [November 15, 2021](#) and [November 22, 2021](#), in each case only to the extent filed and not furnished; and
- the description of our common stock contained in our registration statement on [Form 8-A](#) filed with the SEC on September 21, 2017, under the Exchange Act, as supplemented and updated by the description of our common stock set forth in [Exhibit 4.2](#) of our Annual Report on Form 10-K for the year ended December 31, 2019, including any amendment or report filed for the purpose of updating such description.

In addition, all documents we subsequently file with the SEC pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, until the offering of the securities offered hereby is terminated or completed, shall be deemed to be incorporated by reference into this prospectus.

Unless specifically stated to the contrary, none of the information that we may furnish to the SEC under Items 2.02 and 7.01 of any Current Report on Form 8-K, including any related exhibits under Item 9.01, will be incorporated by reference into, or otherwise included in, this prospectus.

Any statement contained in a document incorporated or deemed to be incorporated by reference into this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or any other subsequently filed document that is deemed to be incorporated by reference into this prospectus modifies or supersedes the statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

We will provide each person to whom a prospectus is delivered a copy of all of the information that has been incorporated by reference in this prospectus but not delivered with the prospectus. You may obtain copies of these filings, at no cost, through the “Investors” section of our website ([www.arcimoto.com](http://www.arcimoto.com)) and you may request a copy of these filings (other than an exhibit to any filing unless we have specifically incorporated that exhibit by reference into the filing), at no cost, by writing or telephoning us at the following address:

Corporate Secretary  
Arcimoto, Inc.  
2034 West 2<sup>nd</sup> Avenue  
Eugene, Oregon 97402  
(541) 683-6293

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**Up to [●] Shares of Common Stock**

**Pre-Funded Warrants to Purchase up to [●] Shares  
of Common Stock**

**Common Warrants to Purchase up to [●] Shares  
of Common Stock**

**Up to [●] Shares of Common Stock underlying such Pre-Funded Warrants and Common Warrants**

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**PROSPECTUS SUPPLEMENT**

*Sole Placement Agent*

**A.G.P.**

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**January [●], 2023**

