UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

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

For the quarterly period ended September 30, 2026

or

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

For the transition period from _____ to _____

001-42035
(Commission File Number)

PROFICIENT AUTO LOGISTICS, INC.
(Exact name of registrant as specified in its charter)

Delaware	**93-1869180**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
12276 San Jose Blvd. Suite 426 Jacksonville, Florida	**32223**
(Address of principal executive offices)	(Zip Code)

(904) 506-7918
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value $0.01 per share	PAL	The Nasdaq Stock Market LLC

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

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

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

Large accelerated filer ☐	Accelerated filer ☐
Non-accelerated filer ☒	Smaller reporting company ☐
	Emerging growth company ☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

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

The registrant had 28,063,881 shares of common stock outstanding at November 9, 2026.

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PROFICIENT AUTO LOGISTICS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(unaudited)

	September 30, 2026	December 31, 2025
Assets		
Current assets:		
Cash and cash equivalents	$ 11,830,484	$ 14,285,745
Accounts receivable, less allowance for credit losses (2026 - $1,230,244; 2025 - $826,740)	81,611,526	42,188,909
Net investment in leases, current portion	166,097	126,730
Maintenance supplies	2,218,736	1,714,238
Assets held for sale	1,228,932	28,500
Income tax receivable	1,470,239	1,791,544
Prepaid expenses and other current assets	12,928,967	11,261,497
Total current assets	111,454,981	71,397,163
Property and equipment, net of accumulated depreciation and amortization (2026 - $62,738,508; 2025 - $43,500,044)	198,517,578	115,850,061
Operating lease right-of-use assets	11,562,747	12,633,834
Net investment in leases, less current portion	90,284	21,781
Deposits	7,418,432	6,124,946
Goodwill	158,571,420	148,476,407
Intangible assets, net (2026 - $22,980,054; 2025 - $17,615,109)	138,121,961	122,804,891
Other long-term assets	464,371	668,426
Total Assets	$ 626,201,774	$ 477,977,509
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 20,437,833	$ 8,305,255
Accrued liabilities	60,718,594	33,030,001
Finance lease liabilities, current portion	26,618	8,758
Operating lease liabilities, current portion	3,058,587	2,249,651
Long-term debt, current portion	32,970,105	20,303,077
Total current liabilities	117,211,737	63,896,742
Long-term liabilities:		
Line of credit	9,900,000	—
Finance lease liabilities, less current portion	16,607	—
Operating lease liabilities, less current portion	9,068,208	10,689,839
Long-term debt, less current portion	97,729,391	54,026,968
Deferred tax liability, net	33,594,364	34,900,440
Convertible senior notes	72,154,289	—
Other long-term liabilities	2,973,049	3,073,049
Total Liabilities	342,647,645	166,587,038
Commitments and contingencies (Note 16)		
Stockholders' Equity:		
Common stock, $0.01 par value; 50,000,000 shares authorized; 28,076,361 and 27,834,799 shares issued and 27,977,560 and 27,834,799 outstanding as of September 30, 2026 and December 31, 2025, respectively	280,764	278,347
Additional paid in capital	349,414,807	356,179,787
Accumulated deficit	(65,399,897)	(45,067,663)
Accumulated other comprehensive income (loss)	(188,545)	—
Treasury stock at cost, 98,801 shares as of September 30, 2026 and 0 shares as of December 31, 2025	(553,000)	—
Total Stockholders' Equity	283,554,129	311,390,471
Total Liabilities and Stockholders' Equity	$ 626,201,774	$ 477,977,509

The accompanying notes to the condensed consolidated financial statements are an integral part of these statements.

PROFICIENT AUTO LOGISTICS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(unaudited)

	Nine months ended September 30, 2026	Nine months ended September 30, 2025	Three months ended September 30, 2026	Three months ended September 30, 2025
Operating revenue				
Revenue, before fuel surcharge	$ 312,594,172	$ 299,887,668	$ 130,381,608	$ 104,900,181
Fuel surcharge and other reimbursements	32,922,759	19,672,820	16,006,722	7,442,725
Other revenue	3,414,238	3,260,712	1,503,506	1,266,845
Lease revenue	3,127,819	2,226,211	1,077,698	685,053
Total operating revenue	352,058,988	325,047,411	148,969,534	114,294,804
Operating expenses				
Salaries, wages and benefits	78,129,637	64,086,192	35,159,198	22,341,396
Stock-based compensation	4,177,627	4,274,717	1,479,297	1,870,211
Fuel and fuel taxes	32,120,692	19,343,046	16,306,884	6,497,935
Purchased transportation	160,821,857	163,008,119	63,223,804	56,851,258
Truck expenses	25,094,041	19,027,640	10,838,695	6,739,370
Depreciation	22,283,776	21,854,078	7,505,530	7,718,519
Intangible amortization	7,483,785	7,325,112	2,654,281	2,454,641
Loss (gain) on sale of equipment	(373,889)	(278,911)	(414,936)	(52,597)
Insurance premiums and claims	20,447,337	15,746,601	9,068,386	5,405,410
General, selling, and other operating expenses	15,913,921	12,998,713	7,018,606	4,569,409
Total operating expenses	366,098,784	327,385,307	152,839,745	114,395,552
Operating (loss) income	(14,039,796)	(2,337,896)	(3,870,211)	(100,748)
Other income and expense				
Interest expense	(5,878,342)	(5,091,297)	(3,049,275)	(1,682,501)
Acquisition costs	(6,449,870)	(406,545)	(6,426,134)	(94,738)
Restructuring charges	—	(1,901,103)	—	(1,901,103)
Foreign currency transaction gain (loss)	(3,748)	—	(3,748)	—
Other income, net	155,051	294,441	140,313	113,150
Total other expense, net	(12,176,909)	(7,104,504)	(9,338,844)	(3,565,192)
Loss before income taxes	(26,216,705)	(9,442,400)	(13,209,055)	(3,665,940)
Income tax (benefit) expense	(5,884,471)	(1,674,196)	(3,262,370)	(646,254)
Net loss	$ (20,332,234)	$ (7,768,204)	$ (9,946,685)	$ (3,019,686)
Other comprehensive income (loss), net of tax				
Foreign currency translation adjustment, net of tax	(188,545)	—	(188,545)	—
Total other comprehensive income (loss), net of tax	(188,545)	—	(188,545)	—
Comprehensive income (loss)	$ (20,520,779)	$ (7,768,204)	$ (10,135,230)	$ (3,019,686)
Loss per share				
Basic & Diluted	$ (0.73)	$ (0.28)	$ (0.35)	$ (0.11)
Weighted average shares outstanding				
Basic & Diluted	28,033,351	27,494,922	28,285,966	27,796,148

The accompanying notes to the condensed consolidated financial statements are an integral part of these statements.

PROFICIENT AUTO LOGISTICS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(unaudited)

	Common Stock		Additional Paid in	Accumulated	Total
	Shares	Amount	Capital	Deficit	Equity
Balance, December 31, 2024	27,069,114	$ 270,691	$ 346,756,929	$ (9,048,097)	$ 337,979,523
Stock-based compensation	—	—	1,183,009	—	1,183,009
Net loss	—	—	—	(3,191,685)	(3,191,685)
Balance, March 31, 2025	27,069,114	$ 270,691	$ 347,939,938	$ (12,239,782)	$ 335,970,847
Business combination	395,322	3,953	3,810,911	—	3,814,864
Stock-based compensation	274,549	2,745	1,218,752	—	1,221,497
Other	—	—	77,932	—	77,932
Net loss	—	—	—	(1,556,833)	(1,556,833)
Balance, June 30, 2025	27,738,985	$ 277,389	$ 353,047,533	$ (13,796,615)	$ 339,528,307
Stock-based compensation	79,920	799	1,869,412	—	1,870,211
Other	—	—	10,401	—	10,401
Net loss	—	—	—	(3,019,686)	(3,019,686)
Balance, September 30, 2025	27,818,905	$ 278,188	$ 354,927,346	$ (16,816,301)	$ 338,389,233

	Common Stock		Additional Paid in	Accumulated	Accumulated Other Comprehensive	Treasury	Total
	Shares	Amount	Capital	Deficit	(Loss) Income	Stock	Equity
Balance, December 31, 2025	27,834,799	$ 278,347	$ 356,179,787	$ (45,067,663)	—	$ —	$ 311,390,471
Stock-based compensation	18,152	182	1,351,900	—	—	—	1,352,082
Net loss	—	—	—	(6,490,101)	—	—	(6,490,101)
Repurchase of shares	—	—	—	—	—	(517,884)	(517,884)
Balance, March 31, 2026	27,852,951	$ 278,529	$ 357,531,687	$ (51,557,764)	$ —	$ (517,884)	$ 305,734,568
Issuance of restricted shares	199,972	—	—	—	—	—	—
Stock-based compensation	—	2,000	826,364	—	—	517,884	1,346,248
Net loss	—	—	—	(3,895,448)	—	—	(3,895,448)
Balance, June 30, 2026	28,052,923	$ 280,529	$ 358,358,051	$ (55,453,212)	$ —	$ —	$ 303,185,368
Issuance of restricted shares	30,087	—	—	—	—	—	—
Stock-based compensation	—	301	1,478,996	—	—	—	1,479,297
Business combination - 2026 Acquisition	421,354	4,214	2,241,603	—	—	—	2,245,817
Capped calls options	-	-	(9,372,500)	—	—	—	(9,372,500)
Indemnification settlement	(428,003)	(4,280)	(3,291,343)	—	—	—	(3,295,623)
Other comprehensive loss	—	—	—	—	(188,545)	—	(188,545)
Repurchase of common stock	—	—	—	—	—	(553,000)	(553,000)
Net loss	—	—	—	(9,946,685)	—	—	(9,946,685)
Balance, September 30, 2026	28,076,361	$ 280,764	$ 349,414,807	$ (65,399,897)	$ (188,545)	$ (553,000)	$ 283,554,129

The accompanying notes to the condensed consolidated financial statements are an integral part of these statements.

PROFICIENT AUTO LOGISTICS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)

	Nine months ended September 30, 2026	Nine months ended September 30, 2025
Cash flows from operating activities:		
Net loss	$ (20,332,234)	$ (7,768,204)
Adjustments to reconcile net loss to net cash flows provided by operating activities:		
Stock-based compensation	4,177,627	4,274,717
Provision for credit losses	409,339	481,348
Depreciation and amortization expense	29,767,561	29,179,190
Loss (Gain) on sale of equipment	(373,889)	(278,911)
Interest income	(7,018)	(27,045)
Amortization of debt issuance costs	196,448	53,121
Deferred income tax benefit	(6,523,174)	(2,217,352)
Operating lease expense	2,237,543	1,451,392
Gain on settlement of indemnification	(532,883)	—
Foreign currency (gains) losses	(3,748)	—
Change in operating assets and liabilities:		
Accounts receivable	(9,859,884)	(7,194,104)
Net investment in leases	124,929	273,948
Maintenance supplies	(504,498)	(67,774)
Income tax receivable	412,803	(421,600)
Prepaid expenses and other assets	5,983,529	3,694,139
Deposits	170,691	(724,114)
Accounts payable	2,407,811	496,410
Accrued liabilities	(6,430,100)	5,791,571
Income tax payable	—	—
Operating lease liabilities	(1,930,843)	(1,316,178)
Net cash flows (used in) provided by operating activities	(609,990)	25,680,554
Cash flows from investing activities:		
Proceeds from sale of equipment	1,495,197	1,087,254
Purchases of property and equipment	(3,925,995)	(3,203,842)
Business combinations, net of cash acquired	(53,720,246)	(9,063,849)
Net cash flows used in investing activities	(56,151,044)	(11,180,437)
Cash flows from financing activities:		
Proceeds from line of credit	12,500,000	4,000,000
Proceeds from long-term debt	—	9,000,000
Repayments of line of credit	(2,600,000)	(11,000,000)
Repayments of long-term debt	(15,652,879)	(17,297,676)
Repayments of finance lease obligations	(13,842)	(65,949)
Payment of financing fees	(1,576,647)	—
Proceeds from issuance of convertible senior notes, net of issuance costs	72,092,525	—
Purchase of capped calls options	(9,372,500)	—
Repurchase of common stock	(1,070,884)	—
Net cash flows provided by (used in) financing activities	54,305,773	(15,363,625)
Net change in cash	(2,455,261)	(863,508)
Cash and cash equivalents, beginning of period	14,285,745	15,398,714
Cash and cash equivalents, end of period	$ 11,830,484	$ 14,535,206
Supplemental disclosure of cash flow information:		
Cash paid for interest	$ 5,347,714	$ 5,061,784
Cash paid for taxes	49,997	1,002,632
Noncash investing and financing activity:		
Refinancing of equipment debt [1]	$ 82,000,000	$ —
Issuance of shares for business combinations	2,245,817	3,814,864
Cancellation of common stock in connection with indemnification settlement	3,295,623	—
Equipment financed through long-term debt	—	5,766,694
Earn-out liability	—	100,000

(1) A new syndicated equipment financing facility replaced an equal amount of existing debt previously owed to various lenders.

The accompanying notes to the condensed consolidated financial statements are an integral part of these statements.

PROFICIENT AUTO LOGISTICS, INC. AND SUBSIDIARIES
NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)

Note 1 — Nature of operations

AH Acquisition Corp. was formed on June 13, 2023, pursuant to the laws of the State of Delaware to become a holding company for the consolidation of several operating companies within the automobile transportation industry. Subsequently, on October 17, 2023, AH Acquisition Corp. legally changed its name to Proficient Auto Logistics, Inc. ("Proficient," the "Company," or "we").

Proficient is an industry-leading specialized freight company focused on providing auto transportation and logistics services. The Company offers a broad range of auto transportation and logistics services, primarily focused on transporting finished vehicles from automotive production facilities, marine ports of entry, or regional rail yards to auto dealerships around the country. We have developed a differentiated business model due to our scale, breadth of geographic coverage, and embedded customer relationships with leading auto original equipment manufacturing companies ("OEMs"). Our customers range from large, global auto companies, to electric vehicle producers. Additional customers include auto dealers, auto auctions, rental car companies, and auto leasing companies. Proficient operates an asset-based Company Drivers service ("Company Drivers") on behalf of the manufacturers. In addition, Proficient serves OEMs and other customers through independent contractors and third-party carriers under an asset-light freight model ("Subhaulers").

On August 13, 2026, the Company, through its wholly-owned subsidiaries Proficient Services, Inc. and H&A CN Acquisition, Ltd., completed the acquisition of all of the issued and outstanding equity interests of Hansen & Adkins Auto Transport, LLC ("H&A Auto Transport"), Hansen & Adkins Auto Logistics, LLC ("H&A Auto Logistics"), Royal Truck Leasing, LLC ("Royal") and Hansen & Adkins Canada Ltd. ("H&A Canada"), the owner of MCL McGill Carriers Ltd. ("MCL"), pursuant to the Equity Purchase Agreement dated August 10, 2026 (the "H&A Purchase Agreement"). H&A Auto Transport, H&A Auto Logistics and Royal are referred to collectively as "H&A," of which H&A Auto Transport and H&A Auto Logistics were each converted to a limited liability company prior to closing. H&A and MCL are referred to collectively as the "2026 Acquisition." The Company completed the 2026 Acquisition to expand its fleet and network, enter new markets, and to take advantage of expected operating synergies of the combined entities. The 2026 Acquisition expanded the Company's operations into Canada and broadened its geographic footprint and customer portfolio.

Note 2 — Summary of significant accounting policies

Basis of Presentation — The condensed consolidated financial statements and footnotes have been prepared in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Principles of Consolidation — The condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant intercompany transactions and accounts have been eliminated. The condensed consolidated financial statements include the impact of push-down accounting with acquisition related costs pushed down to the corresponding reporting entity.

Seasonality — In our industry, results of operations generally follow a seasonal pattern. Volumes in the first quarter are typically lower due to less consumer demand, customers reducing shipments following year end, and inclement winter weather. At the same time, operating expenses generally increase, and tractor productivity of the Company's fleet and independent contractors decreases during the winter months due to decreased fuel efficiency, increased cold-weather-related equipment maintenance and repairs, and increased insurance claims and costs attributed to higher accident frequency from winter weather conditions. These factors typically lead to lower operating profitability, as compared to other parts of the year. Additionally, beginning in the latter half of the third quarter and continuing into the fourth quarter, the Company typically experiences surges in volumes from customers pushing to move units before year end. Additionally, macroeconomic trends and cyclical changes in the auto haul industry, including imbalances in supply and demand, can override the seasonality faced in the industry.

Accounts Receivable — Accounts receivable represents customer obligations due under normal trade terms. The Company establishes an allowance for credit losses based on historical experience and any known trends or uncertainties related to customer billing and account collectability. The Company reviews the adequacy of its allowance for credit losses on a quarterly basis. Uncollectible accounts are written off when deemed uncollectible, and accounts receivable are presented net of an allowance for credit losses. Based on the information available, the Company recorded an allowance for credit losses of approximately $1.2 million and $0.8 million at September 30, 2026 and December 31, 2025, respectively. Actual write-offs could differ from management's estimate.

Business combinations — The Company accounts for business combinations using the acquisition method pursuant to ASC 805, *Business Combinations*. For each acquisition, the Company recognizes the assets acquired and liabilities assumed at their respective fair values as of the acquisition date. Valuations of certain assets acquired, including customer relationships, and trade names involve significant judgment and estimation. The Company uses independent valuation specialists to help determine fair value of certain assets and liabilities. Valuations utilize significant estimates, such as forecasted revenues and profits. Changes in these estimates could significantly impact the value of certain assets and liabilities. ASC 805 establishes a measurement period to provide the Company with a reasonable amount of time to obtain the information necessary to identify and measure various items in a business combination. The measurement period cannot extend beyond one year from the acquisition date. Measurement period adjustments are recognized in the reporting period in which the adjustments are determined and calculated as if the accounting had been completed as of the acquisition date. The Company expects to complete the final fair value determination of the assets acquired and liabilities assumed as soon as practicable within the measurement period, but not to exceed one year from the acquisition date.

Foreign Currency Translation and Transactions — The reporting currency of the Company is the U.S. dollar. The functional currency of its foreign operation generally is the applicable local currency. Assets and liabilities of foreign subsidiary are translated at the spot rate in effect at the applicable reporting date. Generally, the amounts reported in the Company's condensed consolidated statements of operations and comprehensive loss are translated at the average exchange rates in effect during the applicable period. The resulting unrealized cumulative translation adjustment, net of applicable income taxes, is recorded as a component of accumulated other comprehensive loss, a separate component of stockholders' equity. Generally, the cash flows from the Company's operations in foreign country are translated at the average rate for the applicable period in the condensed consolidated statements of cash flows.

Goodwill — Goodwill is recorded when the purchase price paid in a business combination exceeds the fair value of assets acquired and liabilities assumed. Goodwill is reviewed for impairment on an annual basis with the assessment date of November 30th, or upon an occurrence of an event or changes in circumstances that indicate that the carrying value may not be recoverable.

Goodwill impairment is the amount by which a reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. When testing goodwill for impairment, the Company may first perform a qualitative assessment to determine whether the fair value of a reporting unit is less than its carrying amount. The Company then completes a quantitative impairment test if the qualitative assessment indicates that it is more likely than not that the reporting unit's fair value is less than the carrying value of its assets. As part of the Company's impairment analysis, fair value of a reporting unit is generally determined using the income and market approaches. The income approach requires management to estimate a number of factors for each reporting unit, including projected future operating results, economic projections, anticipated future cash flows and discount rates. The market approach estimates fair value using comparable marketplace fair value data from within a comparable industry grouping, as well as recent guideline transactions. The determination of the fair value of the reporting units requires the Company to make significant estimates and assumptions with respect to the business and financial performance of the Company's reporting units. These estimates and assumptions primarily include, but are not limited to, the selection of appropriate peer group companies, control premiums appropriate for acquisitions in the industry in which we compete, discount rates, terminal growth rates, forecasts of revenue, operating income, working capital requirements, and capital expenditures.

If the estimated fair value of the reporting unit exceeds the carrying value, goodwill is not considered impaired, and no additional steps are needed. If, however, the fair value of the reporting unit is less than its carrying value, then the amount of the impairment loss is the amount by which the reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill.

Intangible Assets, *Net* — The Company's intangible assets consist of acquired customer relationships and trade names. Intangible assets with finite lives are amortized over their estimated useful lives using the straight-line method. Intangible assets historically have been acquired through business combinations and recorded at their purchase date estimated fair value.

When determining the fair value of acquired intangible assets, management makes significant estimates and assumptions, including, but not limited to, expected long-term market growth, customer retention, future expected operating expenses, costs of capital and appropriate discount rates. Finite-lived intangible assets are amortized using the straight-line method over their respective estimated useful lives. The Company amortizes its intangible assets using the straight-line method over their estimated useful lives of 15 years for customer relationships and 10 years for trade names.

Convertible Debt - The Company evaluates the terms of its convertible notes to determine whether the notes or any embedded features require separate accounting under ASC 470, *Debt*, and ASC 815, *Derivatives and Hedging*. The Company has concluded that the conversion option meets the scope exception for contracts indexed to the Company's own equity and is not required to be bifurcated as an embedded derivative. Accordingly, the convertible notes are accounted for as a single liability measured at amortized cost, net of unamortized debt issuance costs. Debt issuance costs are amortized to interest expense over the term of the notes using the effective interest method. For purposes of calculating diluted earnings per share, the Company applies the if-converted method to its convertible notes, as required by ASU 2020-06.

Capped Calls Transactions - In connection with the issuance of the convertible notes, the Company entered into capped calls transactions with unrelated financial entities. The capped calls transactions are separate transactions from the convertible notes and are not part of the terms of the notes. The Company has concluded that the capped calls transactions meet the criteria for equity classification under ASC 815-40 and, accordingly, the cost of the capped calls transactions was recorded as a reduction to additional paid-in capital. The capped calls transactions are not remeasured as long as they continue to meet the criteria for equity classification. The capped calls transactions are excluded from the calculation of diluted earnings per share because their effect would be anti-dilutive.

Revenue Recognition - The Company recognizes revenue over time as control of the promised services is transferred to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for those services. The delivery of the shipment and completion of the performance obligation allow for the collection of payment between 30 and 60 days after the delivery date of the shipment for the majority of our customers.

The Company's operations are consistent with those in the trucking industry where freight can be hauled twenty-four hours a day and seven days a week, subject to hours of service rules. Approximately 94% of the loads are less than 500 miles in length of haul. Each individual shipment accepted by the Company is considered a separate contract with the performance obligation being the delivery of the freight. Our average length of haul for each load of freight is less than two days of continuous transit time. The Company has therefore applied the practical expedient and has not disclosed the amount of remaining unsatisfied performance obligations. The Company estimates revenue for loads based on transit time, as the customer simultaneously receives and consumes the benefit provided. The Company hauls freight and earns revenue on a consistent basis throughout the periods presented.

Stock-Based Compensation — Restricted Stock Units ("RSUs") and Performance Stock Units ("PSUs") have been granted to eligible employees and independent board members of the Company. Recipients are required to remain employed for the necessary service period, and in the case of the PSUs, achieve specified performance conditions established by the Company. The Company has recorded compensation expense within stock-based compensation in the consolidated statement of operations. In accounting for stock-based compensation awards, the Company measures and recognizes the cost of employee services received in exchange for awards of equity instruments based on the grant date fair value of those awards. Compensation expense for time-vesting awards is recognized ratably using the straight-line attribution method over the vesting period, which is considered to be the requisite service period. Compensation expense for PSUs is recognized over the required service period based on management's assessment of the probability of achieving the applicable performance conditions. The estimated fair value of the RSUs and PSUs was determined using the closing price of the Company's common stock on the day preceding the grant date.

Fair Value Measurements — The Company determines fair value based upon the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, as determined by either the principal market or the most advantageous market in which it transacts. The Company applies fair value accounting for all the financial assets and liabilities that are recognized or disclosed at fair value in the consolidated financial statements on a recurring basis. The Company applies the following fair value hierarchy, which prioritizes the inputs used to measure fair value into three levels and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement:

Level 1 – Observable inputs such as unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date;

Level 2 – Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities; and

Level 3 – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. These inputs are based on the Company's own assumptions about current market conditions and require significant management judgment or estimation.

As of September 30, 2026 and December 31, 2025, the carrying value of cash and cash equivalents, accounts receivable, accounts payable, accrued liabilities, and other current assets and liabilities approximates fair value due to the short maturities of these instruments. Interest rates on borrowings under long-term debt and finance lease obligations approximate the interest rates that would currently be available to the Company under similar terms, and as such, carrying value approximates fair value. Certain assets, including goodwill, intangible assets and other long-lived assets, are also subject to measurement at fair value on a nonrecurring basis (1) when they are acquired during a business combination as discussed in Note 3, and (2) if they are deemed to be impaired as a result of an impairment review.

Segment Reporting — In accordance with ASC 280, *Segment Reportin*g, operating segments are defined as components of an enterprise for which separate financial information is available and are regularly reviewed by the chief operating decision maker ("CODM") in deciding how to allocate resources and in assessing performance. The CODM primarily evaluates performance based on operational results from the services provided by Company Drivers and Subhaulers. The Company's CODM has been identified to collectively include the Company's Chief Executive Officer, Chief Financial Officer, and Chief Operating Officer.

The CODM uses the segment operating profit or loss measure to evaluate the profitability and operational efficiency of each segment, identify areas for improvement, and make informed decisions about resource allocation, strategic planning, and performance targets. This measure of segment profit or loss is consistent with the measurement principles used in the consolidated financial statements. The CODM reviews the segment operating profit or loss on a quarterly basis during executive meetings and uses this information to assess segment performance (analyzing margins, revenue changes, and expense management), allocate resources (capital deployment and personnel allocation to executive strategic initiatives), strategic planning (setting short and longer term goals for expansion), and performance targets (establishing key performance indicators, monitoring progress, and revising plans).

Based on the unique nature of the Company's operating structure, certain revenue-generating assets are interchangeable between segments. Additionally, the Company's CODMs do not review assets or liabilities by segment to make operating decisions. The Company allocates depreciation and amortization expense of its property and equipment to the segments based on the utilization of the asset by the segment during the period.

Accounting Pronouncements Not Yet Adopted

In September 2025, the FASB issued ASU 2025-06, Intangibles – Goodwill and Other – Internal Use Software (Subtopic 350-40), which removes project development stages when developing internal use software. The ASU is effective for fiscal years beginning after December 15, 2027, while early adoption is permitted. The Company is currently assessing any changes to capitalization that may be required.

Note 3 — Business combinations

Utah Truck & Trailer Acquisition

On November 1, 2024, Proficient Stock Acquiror, Inc. purchased Utah Truck & Trailer Repair, LLC, ("UTT"), a repair facility located at the ATG headquarters terminal in Ogden, Utah. In February 2025, UTT was renamed to Proficient Repair Services, LLC. The Company purchased UTT for $4.5 million in an all-cash transaction to expand the Company's ability to maintain its revenue generating fleet in the Western region of the country. In connection with this acquisition, the Company recognized $0.2 million in net tangible assets and $4.4 million in goodwill consisting largely of the expected synergies from combining operations as well as the value of the workforce. As a result of this asset acquisition, the Company expects all of the goodwill reported will be tax deductible. At December 31, 2025, the value of UTT acquisition is complete. Any subsequent adjustments will now be recorded to earnings.

Brothers Auto Transport Acquisition

On April 1, 2025, Proficient Stock Acquiror, Inc. purchased all the outstanding equity of Brothers Auto Transport, LLC, ("Brothers"), which provides vehicle transportation and shipping services in the Northeast and MidAtlantic regions of the country. Brothers was purchased for $12.5 million in a combination of cash and stock. In connection with this acquisition, the Company recognized $6.5 million in net tangible assets which includes $6.3 million in equipment notes, and $2.2 million in intangible assets and $3.7 million in goodwill consisting largely of the expected synergies from combining operations as well as the value of the workforce. As a result of this acquisition, the Company expects all of the goodwill reported will be tax deductible. At September 30, 2026, the value of Brothers acquisition is complete. Any subsequent adjustments will now be recorded to earnings.

PVT Truck and Trailer Acquisition

On May 27, 2025, Proficient Repairs Services, LLC purchased PVT Truck & Trailer Repair, LLC, ("PVT"), a repair facility located at the Brothers headquarters terminal in Wind Gap, Pennsylvania. The Company purchased PVT for $1.0 million in an all-cash transaction to expand the Company's ability to maintain its revenue generating fleet in the Northeast and MidAtlantic regions of the country. In connection with this acquisition, the Company recognized $0.3 million in net tangible assets and $0.7 million in goodwill consisting largely of the expected synergies from combining operations as well as the value of the workforce. As a result of this asset acquisition, the Company expects all of the goodwill reported will be tax deductible. At September 30, 2026, the value of PVT acquisition is complete. Any subsequent adjustments will now be recorded to earnings.

Hansen & Adkins and MCL McGill Carriers Ltd. Acquisition

On August 13, 2026 (the "2026 Acquisition Date"), the Company completed the 2026 Acquisition, acquiring all of the issued and outstanding equity interests of H&A and H&A Canada pursuant to the H&A Purchase Agreement. The Company completed the 2026 Acquisition to expand its fleet and network, enter new markets, and to take advantage of expected operating synergies of the combined entities.

The aggregate consideration transferred was $62.6 million, consisting of $60.4 million in cash and approximately $2.2 million representing the acquisition-date fair value of 421,354 shares of the Company's common stock. The terms of the transaction also provide for potential earnout payments of up to $22.1 million of additional contingent consideration, based on the acquired businesses' 2026 earnings before interest, taxes, depreciation, and amortization ("EBITDA"), of which $2 million would be payable in shares of Company's common stock with the remainder payable in cash. The purchase price remains subject to customary post-closing adjustments. The Company funded the acquisition with cash on hand and borrowings under its credit facility and issuance of shares.

The 2026 Acquisition was accounted for as a business combination in accordance with ASC 805, *Business Combinations*. Proficient was the accounting acquirer, and the Company elected to apply pushdown accounting. The purchase price allocation is preliminary and subject to adjustment during the measurement period, which may be up to one year from the 2026 Acquisition Date. During the measurement period, the Company may record adjustments to the fair value of assets acquired and liabilities assumed with the corresponding offset to goodwill. Upon the conclusion of the measurement period, any subsequent adjustments are recorded to earnings. As a result of this acquisition, the Company expects the goodwill reported for H&A will be tax deductible. The following table summarizes the preliminary allocation of consideration to the assets acquired and liabilities assumed from the 2026 Acquisition based on the respective fair values as of September 30, 2026.

	H&A	MCL	Total
Purchase consideration			
Cash consideration paid	$ 52,272,968	$ 8,128,248	60,401,216
Stock consideration issued	1,910,332	335,485	2,245,817
Contingent consideration – earn-out	-	-	-
Total purchase price	$ 54,183,300	$ 8,463,733	$ 62,647,033
Allocation of purchase price			
Cash and cash equivalents	$ 5,593,220	$ 1,087,753	6,680,973
Accounts receivable	24,239,146	5,543,020	29,782,166
Property and equipment, net	89,554,455	12,682,534	102,236,989
Prepaid expenses and other current assets	6,298,361	247,590	6,545,951
Other identifiable tangible assets	3,090,958	987,731	4,078,689
Accounts payable and accrued liabilities	(25,743,438)	(4,488,246)	(30,231,684)
Long-term debt	(64,790,136)	(8,674,156)	(73,464,292)
Deferred tax liabilities, net	(2,529,132)	(2,687,966)	(5,217,098)
Other long-term liabilities	(9,351,041)	(1,245,774)	(10,596,815)
Net identifiable assets acquired	26,362,393	3,452,486	29,814,879
Intangible assets	18,100,000	4,800,000	22,900,000
Goodwill	9,720,907	211,247	9,932,154
Total consideration transferred	$ 54,183,300	$ 8,463,733	$ 62,647,033

	Useful Life (years)	H&A	MCL	Total
Customer relationships	15	$ 10,400,000	$ 3,600,000	$ 14,000,000
Trade names	10	7,700,000	1,200,000	8,900,000
Total		$ 18,100,000	$ 4,800,000	$ 22,900,000

Results of the 2026 Acquisition since the 2026 Acquisition Date

The Company's condensed consolidated statements of operations for the three and nine months ended September 30, 2026 include total operating revenue of $43.3 million and net loss of $1.5 million attributable to H&A, and total operating revenue of $7.4 million and net income of $0.7 million attributable to MCL, for the period from the 2026 Acquisition Date through September 30, 2026.

Supplemental Pro Forma Information (Unaudited)

The following unaudited pro forma information presents the combined results of operations of the Company, H&A, and MCL as if the 2026 Acquisition had occurred on January 1, 2025:

	Three months ended September 30, 2026	Three months ended September 30, 2025	Nine months ended September 30, 2026	Nine months ended September 30, 2025
Total operating revenue	$ 161,597,778	$ 216,248,219	$ 583,431,660	$ 599,689,884
Net loss	$ (8,214,651)	$ 501,991	$ (19,607,148)	$ (7,378,884)

The unaudited pro forma information includes the following adjustments:

	Three months ended September 30, 2026	Three months ended September 30, 2025	Nine months ended September 30, 2026	Nine months ended September 30, 2025
Buyer transaction costs	$ 4,405,997	$ 4,405,997	$ 4,405,997	$ 4,405,997
Amortization of acquired intangibles	(151,944)	(455,833)	(1,063,611)	(1,367,500)
Property and equipment depreciation	335,830	266,608	1,749,442	888,980
Incremental interest expense, net	(563,714)	(1,395,699)	(2,942,273)	(4,109,835)
Income tax effect	(986,009)	388,148	(526,426)	44,659
Total pro forma adjustments to net income	$ 3,040,160	$ 3,209,221	$ 1,623,129	$ (137,699)

The unaudited pro forma information is presented for informational purposes only and does not purport to represent the results of operations that would have been achieved had the 2026 Acquisition occurred on January 1, 2025, nor is it necessarily indicative of future results.

Note 4 — Goodwill

Goodwill is evaluated for impairment annually as of November 30, or more frequently if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying value.

As of November 30, 2025, the Company completed a quantitative impairment analysis for goodwill related to its Company Drivers and Subhauler reporting units during its annual assessment. Based on this analysis, the Company recognized goodwill impairment of $25.6 million within its Subhauler reporting unit, reflected in Goodwill & Intangibles Impairment within the consolidated statements of operations and comprehensive loss. Downward revisions to forecasts in the analysis were the primary reason for the impairment charge. As of November 30, 2025, the Company believes the carrying value of the Subhauler reporting unit approximates its fair value. As of November 30, 2025, the carrying value of goodwill within the Subhauler reporting unit was $57.8 million.

As part of the Company's impairment analyses, fair value of the reporting units was determined using both the income and market approach. The income approach requires management to estimate a number of factors, including the projected future operating results, economic projections, anticipated future cash flow and discount rates. The market approach estimates fair value using comparable marketplace fair value data from within a comparable industry grouping as well as recent guideline transactions.

The determination of the fair value of the reporting unit requires the Company to make significant estimates and assumptions related to the business and financial performance of the Company's reporting units. These estimates and assumptions primarily include but are not limited to, the selection of appropriate peer group companies, control premiums appropriate for acquisitions in the industry in which the Company competes, discount rates, terminal growth rates, forecasts of revenue, operating income, depreciation, amortization, working capital requirements and capital expenditures. Future increases in discount rates or deterioration in the observable prices for guideline companies could result in further goodwill impairment in subsequent periods.

The changes in the carrying amount of goodwill and allocation to reportable segments are as follows:

	Company Drivers	Subhaulers	Consolidated
Balance – December 31, 2024	$ 87,434,455	$ 81,622,220	$ 169,056,675
Additions	3,391,969	884,032	4,276,001
Adjustments	(121,280)	820,011	698,731
Impairment	—	(25,555,000)	(25,555,000)
Balance – December 31, 2025	$ 90,705,144	$ 57,771,263	$ 148,476,407
Additions	2,166,456	7,765,698	9,932,154
Adjustments	142,176	25,090	167,266
Year-to-date foreign currency translation adjustment	(2,203)	(2,204)	(4,407)
Balance – September 30, 2026	$ 93,011,573	$ 65,559,847	$ 158,571,420

Note 5 — Intangible assets, net

	September 30, 2026		
	Gross carrying amount	Accumulated amortization	Net carrying amount
Customer relationships	$ 138,577,000	$ (19,636,179)	$ 118,940,821
Trade names	22,617,000	(3,340,300)	19,276,700
Year-to-date foreign currency translation adjustment	(91,985)	(3,575)	(95,560)
Total	$ 161,102,015	$ (22,980,054)	$ 138,121,961

	December 31, 2025		
	Gross carrying amount	Accumulated amortization and impairment	Net carrying amount
Customer relationships	$ 126,703,000	$ (15,422,261)	$ 111,280,739
Trade names	13,717,000	(2,192,848)	11,524,152
Total	$ 140,420,000	$ (17,615,109)	$ 122,804,891

The Company recorded amortization expenses related to Customer relationships of $6.4 million, $2.2 million, $6.3 million, and $2.1 million in the condensed consolidated statements of operations and comprehensive loss for the nine and three months ended September 30, 2026 and 2025, respectively.

The Company recorded amortization expenses related to Trade names of $1.1 million, $0.5 million, $1.0 million and $0.3 million in the condensed consolidated statements of operations and comprehensive loss for the nine and three months ended September 30, 2026 and 2025, respectively.

As of September 30, 2026, the expected amortization expense associated with the Company's identifiable intangible assets with estimable useful lives over the next five years was as follows:

2026	$ 3,022,527
2027	11,482,331
2028	11,482,331
2029	11,482,331
2030	11,482,331
Thereafter	89,170,110
Total	$ 138,121,961

As of September 30, 2026, the weighted average amortization period for all intangible assets was 12.4 years, with 12.6 years for Customer relationships and 7.6 years for Trade names.

Note 6 — Property and equipment

Property and equipment, at cost, consist of the following as of:

	September 30, 2026	December 31, 2025
Land	$ 2,220,000	$ 2,220,000
Buildings and improvements	1,799,256	1,715,459
Furniture and equipment	356,273	306,705
Machinery and equipment	1,669,489	1,176,430
Software and computer equipment	1,343,165	1,156,458
Transportation equipment	253,867,903	152,775,053
	261,256,086	159,350,105
Less accumulated amortization and depreciation	(62,738,508)	(43,500,044)
Property and equipment, net	$ 198,517,578	$ 115,850,061

The Company recorded depreciation expense of $22.3 million, $7.5 million, $21.9 million, and $7.7 million in the condensed consolidated statements of operations and comprehensive loss for the nine and three months ended September 30, 2026 and 2025, respectively.

The Company recorded gain on the disposal of equipment of $0.4 million, $0.4 million, $0.3 million, and $0.05 million in the condensed consolidated statements of operations and comprehensive loss for the nine and three months ended September 30, 2026 and 2025, respectively.

Note 7 — Accrued liabilities

Accrued liabilities consist of the following as of:

	September 30, 2026	December 31, 2025
Claims, insurance and litigation reserves	$ 28,393,356	10,758,083
Salaries, wages and benefits	11,176,840	3,779,342
Deferred lease to purchase payments	9,555,267	8,497,950
Independent contractors' deposits	2,285,102	2,504,336
Escrow payments	2,214,052	994,012
Accrued purchased transportation	2,174,993	3,351,017
Other accrued expenses	4,918,984	3,145,261
Accrued liabilities	$ 60,718,594	$ 33,030,001

Note 8 — Income taxes

The effective tax rates for the nine and three months ended September 30, 2026 and September 30, 2025 were 22.5%, 24.8%, 17.7% and 17.6%, respectively. The effective rates differ from the statutory rates primarily due to state tax adjustments, state minimum taxes, and permanent differences such as disallowed stock-based compensation.

The Company has no uncertain tax positions.

Note 9 — Line of credit

On November 8, 2024, Proficient entered into a credit facility with a commercial bank that includes up to $25.0 million in term debt with a maturity of April 2031 and up to another $20.0 million in a revolving line of credit with a maturity date of November 8, 2029. The term debt portion bears interest at the Secured Overnight Financing Rate (“SOFR”), plus 2.50%, with interest only payments for the first six months and the balance at the end of six months with principal amortizing over the ensuing five years with 60 monthly payments. Drawn balances from the revolving line of credit bear interest at SOFR, plus 2.20%, with all principal and interest to be repaid at the end of five years. The amount available to be drawn from the line of credit at any point in time is based on a percentage of consolidated accounts receivable and inventory reported by Proficient and its subsidiaries subject to certain conditions, including limitations on the aging of invoices over 90 days, and maximum customer concentration. The amount available to be drawn under the line of credit was $10.1 million on September 30, 2026. The term debt financial covenants include maximum leverage (debt / adjusted EBITDA) and debt service coverage ratio (total principal and interest / adjusted EBITDA). As of September 30, 2026, Proficient was in compliance with its debt covenants. Collateral for the facility includes Accounts Receivable balances owed to the Company and truck maintenance inventory. Upon closing of the credit facility, the Company drew $16.0 million from the available term debt, a portion of which was used to repay and terminate a legacy line of credit. In April 2025, the Company drew an additional $9.0 million from the available term debt to fund the cash portion of the acquisition of Brothers. In August 2026, the Company drew an additional $5.0 million from the available line of credit to fund the cash portion of the acquisition of H&A and MCL. At September 30, 2026, the outstanding borrowings under the revolving line of credit were $9.9 million and the outstanding principal balance of the term debt was $18.3 million.

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Note 10 — Long-term debt

	September 30, 2026	December 31, 2025
Equipment and vehicle notes payable to financial institutions, requiring monthly principal and interest payments totaling $4,491,988. The notes bear interest ranging from 3.90% to 10.77%, mature between September 2026 and November 2031, and are secured by the Company's transportation equipment and vehicles	$ 114,170,043	$ 52,595,562
Term Debt to Pinnacle Bank, requiring principal payments of $415,255 per month commencing June 2025. The notes bear interest at SOFR (Currently 3.92%) +2.5% margin and mature April 2031 (1)	18,274,236	22,011,534
	132,444,279	74,607,096
Less: unamortized debt issuance costs	(1,744,783)	(277,051)
Less: current maturities	(32,970,105)	(20,303,077)
Total long-term debt	$ 97,729,391	$ 54,026,968

(1) The Term Loan and Line of Credit includes financial covenants comprised of maximum leverage (debt / adjusted EBITDA) and debt service coverage ratio (total principal and interest / adjusted EBITDA), both measured quarterly.

Future maturities of long-term debt are as follows:

For the years ending December 31	
2026	$ 8,285,993
2027	32,424,846
2028	30,271,533
2029	27,953,118
2030	21,363,559
Thereafter	12,145,230
Total	$ 132,444,279

The Company capitalized debt issuance costs of $1.6 million during the nine and three month periods ended September 30, 2026. No debt issuance costs were capitalized during the corresponding periods ended September 30, 2025.

The Company recorded amortization expense related to debt issuance costs of $0.2 million and $0.05 million in the condensed consolidated statements of operations and comprehensive loss for the nine months ended September 30, 2026 and 2025, respectively, and $0.17 million and $0.02 million for the three months ended September 30, 2026 and 2025, respectively.

Note 11 — Convertible Senior Notes

2033 Convertible Senior Notes

On August 13, 2026, the Company issued $75.0 million aggregate principal amount of 5.500% Convertible Senior Notes due August 15, 2033 (the "Convertible Notes"). The Convertible Notes are senior unsecured obligations of the Company and bear interest at a rate of 5.500% per annum, payable semi-annually in arrears on February 15 and August 15 of each year, commencing February 15, 2027. The Convertible Notes are convertible at an initial conversion rate of 153.7870 shares of the Company's common stock per $1,000 principal amount, which is the equivalent to an initial conversion price of approximately $6.50 per share. Upon conversion, the Company may elect to settle conversion obligation in cash, shares or a combination.

The Convertible Notes are accounted for as a single liability measured at amortized cost under ASC 470-20. Debt issuance costs are presented as a direct deduction from the carrying amount of the convertible notes and are amortized to interest expense using the effective interest method over the contractual term. Any associated capped calls are classified within stockholders' equity under ASC 815-40.

As of September 30, 2026, the Convertible Notes had an aggregate principal amount outstanding of $75 million and carrying value of $72.1 million, net of approximately $2.8 million of unamortized costs. The debt issuance costs totaled $2.9 million at issuance. The effective interest rate during the quarter ended September 30, 2026 was 6.29%. The interest expense related to the Convertible Notes for the three and nine months ended September 30, 2026 was $0.6 million.

The Convertible Notes will mature on August 15, 2033, unless earlier converted, redeemed, repurchased, or exchanged in accordance with their terms. Prior to May 15, 2033, holders may convert all or any portion of their Convertible Notes upon occurrence of specified events and conditions, including the satisfaction of specified stock price conditions, trading price thresholds, certain corporate events, and redemption events. On or after May 15, 2033 and until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert their Convertible Notes at any time, regardless of such circumstances.

The initial conversion rate of 153.7870 shares per $1,000 principal amount is subject to customary anti-dilution adjustments for certain events, including stock splits, stock dividends, tender offers, spin-offs, and make-whole fundamental changes.

On or after August 15, 2030, the Company may redeem the Convertible Notes, in whole or in part, provided specified conditions are satisfied, including that the Company's common stock trades above 130% of the applicable conversion price for designated periods. The redemption price will equal 100% of the principal amount redeemed, plus accrued and unpaid interest to, but excluding, the redemption date.

If the Company undergoes a "fundamental change" (as defined in the indenture governing the Convertible Notes), then, subject to certain conditions and except as described in the indenture governing the Convertible Notes, holders may require the Company to repurchase for cash all or any portion of their Convertible Notes at a repurchase price equal to 100% of the principal amount of the Convertible Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the repurchase date. The Convertible Notes do not contain a sinking fund provision.

Net proceeds from the issuance were $72.1 million after deducting the initial cost and offering expenses. The Company used the net proceeds to restructure its debt instruments for efficiency, scalability and interest cost savings. During the quarter ended September 30, 2026, none of the conditions permitting the holder conversion were satisfied. Accordingly, the Convertible Notes were not convertible as of September 30, 2026 and remained classified as long-term debt in the Company's condensed consolidated balance sheets.

Capped Calls Transactions

In connection with the offering of the Convertible Notes, the Company entered into capped calls transactions (the "2026 Capped Calls") at a cost of approximately $9.4 million. The 2026 Capped Calls cover, subject to customary adjustments substantially similar to those applicable to the Convertible Notes, the number of shares of common stock underlying the Convertible Notes. The 2026 Capped Calls are expected to generally reduce the potential dilution to the Company's common stock upon any conversion of the Convertible Notes and/or offset any cash payments the Company is required to make in excess of the principal amount of the converted Convertible Notes, as the case may be, with such reduction and/or offset subject to a cap based on a cap price initially equal to approximately $8.93 per share, which represents a premium of 75.1% over the last reported sale price of the common stock of $5.10 per share on the NASDAQ on August 11, 2026, and is subject to certain adjustments under the terms of the 2026 Capped Calls. The Company elected to integrate the 2026 Capped Calls with the Convertible Notes for US federal income tax purposes. Accordingly, the premium paid by the Company for the 2026 Capped Calls will be treated, for US federal income tax purposes, as original issue discount, generally deductible over the term of the Convertible Notes. The 2026 Capped Calls meet the criteria for equity classification with the cost initially recorded as a reduction to additional paid-in-capital within the consolidated balance sheet.

Note 12 — Leases

Lessee — The following table presents certain information related to lease costs for finance and operating leases as of:

	Nine months ended September 30, 2026	Three months ended September 30, 2026	Nine months ended September 30, 2025	Three months ended September 30, 2025
Operating lease cost	$ 2,568,869	$ 908,469	$ 2,068,936	$ 704,034
Finance lease costs:				
Amortization of finance lease assets	10,121	4,414	51,512	17,170
Interest on lease liabilities	601	517	6,227	1,412
Short-term lease costs	1,339,423	723,631	814,399	213,817
Total lease costs	$ 3,919,014	$ 1,637,031	$ 2,941,074	$ 936,433

As of September 30, 2026 and 2025, the weighted-average discount rate for operating leases was 6.78% and 6.86%, respectively, and the weighted-average remaining lease term was 7.3 and 6.8 years, respectively.

As of September 30, 2026 and 2025, the weighted-average discount rate for finance leases was 4.97% and 12.08%, respectively, and the weighted-average remaining lease term was 1.58 years and 1.05 years, respectively.

As of September 30, 2026, future maturities of the lease liabilities were as follows:

	Operating leases	Financing leases
For the years ending December 31		
2026	$ 932,259	$ 6,875
2027	3,806,913	25,387
2028	3,076,564	12,301
2029	1,848,898	1,317
2030	1,313,705	—
Thereafter	3,270,171	—
Total undiscounted cash flows	14,248,510	45,880
Less: present value factor	(2,121,601)	(2,655)
Foreign exchange timing impact [1]	(114)	—
Total lease liabilities	12,126,795	43,225
Less: current portion	(3,058,587)	(26,618)
Total long-term lease liabilities	$ 9,068,208	$ 16,607

(1) Note on foreign exchange timing impact: Represents the valuation variance between the average exchange rates utilized to recognize period expenses and the current year-end spot rate applied to future remaining commitments.

Lessor — The Company leases various types of transportation-related equipment to independent third-parties under lease contracts which are generally for a term of one to eight years and contain an option for the lessee to return or purchase the equipment. Depending on the lease agreement, the Company has recorded these as either sales-type leases or operating leases. The Company assesses a third-party's ability to pay based on the financial capacity and intention to pay, considering all relevant facts and circumstances, including past experiences with that third-party or similar third-parties. For those leases classified as sales-type leases where collectability of lease payments is not probable at lease commencement, the Company does not derecognize the underlying asset and the payments received for these leases are recorded as deposit liabilities. Deposit liabilities of $9.6 million and $8.5 million were reported in accrued liabilities on the condensed consolidated balance sheet as of September 30, 2026 and December 31, 2025, respectively. The determination of collectability is an ongoing assessment and at the time that collectability is determined probable, including in instances where a lease is terminated where collectability is determined probable, the liability and assets will be derecognized with a corresponding earnings recognition.

Lease receivables are carried at the aggregate of lease payments receivable plus the estimated residual value of the leased assets and any initial direct costs incurred to originate these leases, less unearned income, which is accreted to interest income over the lease term using the interest method. Lease receivables of $0.3 million and $0.1 million are reported as net investment in leases on the condensed consolidated balance sheet as of September 30, 2026, and December 31, 2025, respectively.

For the nine and three months ended September 30, 2026 and 2025, the Company recorded sales-type lease revenue of $2.2 million, $0.7 million, $1.6 million and $0.5 million, respectively, within operating revenue on the condensed consolidated statement of operations.

As of September 30, 2026, future minimum lease payments expected to be collected were as follows:

For the years ending December 31		
2026	$	74,104
2027		117,014
2028		37,646
2029		31,206
2030		15,603
Total undiscounted cash payments		275,573
Less: present value factor		(19,192)
Total net investment in lease		256,381
Less: current portion		(166,097)
Total net investment in lease, less current portion	$	90,284

Note 13 — Stock-based compensation

In May 2024, the Company adopted its 2024 Long-Term Incentive Plan ("the 2024 Plan"). The 2024 Plan provides for the grant of incentive stock options to employees, including employees of any parent or subsidiary, and for the grant of nonstatutory stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance stock unit awards and other forms of stock awards to employees and directors, including employees of our affiliates. After taking into account restricted and performance stock units granted in connection with the IPO in concurrent business combinations, the maximum number of shares of our common stock that may be issued under our 2024 Plan is 3,260,000 shares.

The awards under the 2024 Plan vest over periods ranging between one (1) and five (5) years after the grant date. Certain awards granted are subject to both service-based and performance-based vesting conditions. The Company uses straight line vesting to record compensation expense. All awards granted are settled in common stock.

If an employee terminates employment with the Company prior to awards vesting, the unvested awards are forfeited and the historical compensation expense is reversed in the period of termination, unless the employee terminates without cause then a pro-rata portion of the then-unvested awards will vest immediately.

Shares subject to stock awards granted under the 2024 Plan that expire or terminate do not reduce the number of shares available for issuance under the 2024 Plan. Additionally, shares become available for future grants under the 2024 Plan if they were stock awards issued under the 2024 Plan and we repurchase them or they are forfeited. This includes shares used to pay the exercise price of a stock award or to satisfy the tax withholding obligations related to a stock award. As of September 30, 2026, there were 349,883 remaining shares available to be issued under the 2024 Plan.

Restricted Stock Units and Performance Stock Units

In 2026, the Company granted PSUs to certain employees. The Company granted PSUs, which are subject to both continued service and the achievement of specified performance conditions, which are based equally on pretax income and adjusted operating ratio over the performance period. The awards are earned based on the level of achievement of the applicable performance targets during the performance period, with payouts ranging from 0% to 200% of the target number of PSUs. The number of shares ultimately earned will depend on the achievement of the applicable performance targets over the performance period. The grant-date fair value of the PSUs was determined based on the closing price of the Company's common stock on the day preceding the grant date. Compensation expense associated with the PSUs is recognized over the requisite service period based on management's assessment of the probability of achieving the applicable performance conditions, with adjustments recorded in the period management's assessment changes.

Total compensation expense related to restricted and performance stock awards was $4.2 million, $1.5 million, $4.3 million and $1.9 million for the nine and three month period ended September 30, 2026 and 2025, respectively. As of September 30, 2026 and 2025, there was a total of $11.5 million and $12.4 million of unrecognized compensation expense related to these restricted stock awards, which is expected to be recognized over the next three and four years, respectively. The fair value of restricted stock awards is currently valued at the closing price of the Company’s common stock on the day preceding the grant date.

A summary of all restricted and performance stock units outstanding as of September 30, 2026, and activity during the nine months ended September 30, 2026, is presented below:

	Number of Shares	Weighted Average Grant Date Fair Value	Total Grant Date Fair Value	Weighted Average Remaining Contractual Life (years)
Outstanding, December 31, 2025	967,225	$ 14.47	$ 13,994,016	2.7
Granted	666,207	7.13	4,749,179	
Vested	(331,088)	(13.98)	(4,629,336)	
Canceled/Forfeited	(44,313)	(8.32)	(368,636)	
Outstanding, September 30, 2026	1,258,031	$ 10.93	$ 13,745,223	2.2

On March 2, 2026, the Company announced that its Board of Directors authorized a share repurchase program under which the Company may repurchase up to $15 million of its common stock. The repurchase program authorizes the Company to purchase its common stock from time to time in the open market, in block transactions, in privately negotiated transactions, through accelerated stock repurchase programs, through option or other forward transactions or otherwise, all in compliance with applicable laws, rules, regulations and other restrictions. In August 2026, the Company repurchased 98,801 shares of common stock at an average price of $5.56 per share.

Note 14 — Segment reporting

The Company’s business is organized into two operating segments, which represent the Company’s reportable segments. The Company Drivers segment offers automobile transport and contract services under an asset-based model. The Company’s contract service offering uses Company-owned equipment to service specific customers and provides transportation services primarily through long-term contracts. The Company’s Subhauler segment offers transportation services utilizing an asset-light model focusing on outsourcing transportation of loads to independent contractors and third-party carriers.

The following table summarizes information about our reportable segments:

Nine Months Ended September 30, 2026	Company Drivers	Subhaulers	Total
Revenue			
Revenue, before fuel surcharge	$ 130,750,028	$ 181,844,144	$ 312,594,172
Fuel surcharge and other reimbursements	12,957,325	19,965,434	32,922,759
Other revenue	778,054	2,636,184	3,414,238
Lease revenue	—	3,127,819	3,127,819
Segment revenue	$ 144,485,407	$ 207,573,581	$ 352,058,988
Reconciliation of revenue:			
Other revenues [2]			—
Total consolidated			352,058,988
Less:			
Salaries, wages and benefits	61,857,139	10,999,088	
Fuel and fuel taxes	32,120,692	—	
Purchased transportation	—	160,821,857	
Truck expenses	25,094,041	—	
Depreciation	16,686,195	5,482,688	
Other segment items [1]	17,929,303	12,988,587	
Segment operating profit/(loss)	$ (9,201,963)	$ 17,281,361	$ 8,079,398
Reconciliation of segment operating profit to income (loss) before income taxes:			
Other profit/(loss) [2]			(22,119,194)
Interest expense			(5,878,342)
Acquisition costs			(6,449,870)
Foreign currency transaction gain (loss)			(3,748)
Other income, net			155,051
Loss before income taxes			$ (26,216,705)
Other segment disclosures:			
Depreciation [2][3]	$ 16,686,195	$ 5,482,688	$ 22,168,883
Intangible amortization [2][3]			7,483,785
Total depreciation and amortization			$ 29,652,668

(1) Other segment items for each reportable segment include General, selling, and Other operating expenses, Gain on sale of equipment and Insurance premiums and claims.

(2) Other profit/(loss) relates to items not included within the Company's measure of segment operating profit / (loss), these include corporate and unallocated expenses which were not included within the measures of segment profitability regularly reviewed by the CODM. These include $5.3 million in salaries, wages and benefits, $4.2 million in stock-based compensation, $0.1 million in depreciation, $7.5 million in intangible amortization, $0.9 million in insurance premiums and claims, and $ 4.1 million in general selling, and other operating expenses.

(3) The amounts of depreciation and amortization disclosed by reportable segment are included within the other segment items captions.

Three Months Ended September 30, 2026	Company Drivers	Subhaulers	Total
Revenue			
Revenue, before fuel surcharge	$ 59,975,977	$ 70,405,631	$ 130,381,608
Fuel surcharge and other reimbursements	6,923,555	9,083,167	16,006,722
Other revenue	317,113	1,186,393	1,503,506
Lease revenue	—	1,077,698	1,077,698
Segment revenue	$ 67,216,645	$ 81,752,889	$ 148,969,534
Reconciliation of revenue:			
Other revenues [2]			—
Total consolidated			148,969,534
Less:			
Salaries, wages and benefits	28,750,845	4,714,244	
Fuel and fuel taxes	16,306,884	—	
Purchased transportation	—	63,223,804	
Truck expenses	10,838,695	—	
Depreciation	5,796,508	1,668,421	
Other segment items [1]	8,196,259	5,744,972	
Segment operating profit/(loss)	$ (2,672,546)	$ 6,401,448	$ 3,728,902
Reconciliation of segment operating profit to income (loss) before income taxes:			
Other profit/(loss) [2]			(7,599,113)
Interest expense			(3,049,275)
Acquisition costs			(6,426,134)
Foreign currency transaction gain (loss)			(3,748)
Other income, net			140,313
Loss before income taxes			(13,209,055)
Other segment disclosures:			
Depreciation [2][3]	$ 5,796,508	$ 1,668,421	7,464,929
Intangible amortization [2][3]			2,654,281
Total depreciation and amortization			10,119,210

(1) Other segment items for each reportable segment include General, selling, and other operating expenses, Gain on sale of equipment and Insurance premiums and claims.

(2) Other profit/(loss) relates to items not included within the Company's measure of segment operating profit / (loss), these include corporate and unallocated expenses which were not included within the measures of segment profitability regularly reviewed by the CODM. These include $1.7 million in salaries, wages and benefits, $1.5 million in stock-based compensation, $2.7 million in intangible amortization, $0.3 million in insurance premiums and claims, and $ 1.4 million in general selling, and other operating expenses.

(3) The amounts of depreciation and amortization disclosed by reportable segment are included within the other segment items captions.

Nine Months Ended September 30, 2025	Company Drivers	Subhaulers	Total
Revenue			
Revenue, before fuel surcharge	$ 107,502,795	$ 192,384,873	$ 299,887,668
Fuel surcharge and other reimbursements	6,873,576	12,799,244	19,672,820
Other revenue	1,468,403	1,792,309	3,260,712
Lease revenue	—	2,226,211	2,226,211
Segment revenue	$ 115,844,774	$ 209,202,637	$ 325,047,411
Other revenues [2]			—
Total consolidated			$ 325,047,411
Less:			
Salaries, wages and benefits	44,503,336	15,516,016	
Fuel and fuel taxes	19,343,046	—	
Purchased transportation	—	163,008,119	
Truck expenses	19,027,640	—	
Depreciation	16,012,853	5,782,931	
Other segment items [1]	10,055,513	13,259,390	
Segment operating profit	$ 6,902,386	$ 11,636,181	$ 18,538,567
Reconciliation of segment operating profit to income (loss) before income taxes:			
Other profit/(loss) [2]			$ (20,876,463)
Interest expense			(5,091,297)
Acquisition costs			(406,545)
Restructuring charges			(1,901,103)
Other Income, net			294,441
Loss before income taxes			$ (9,442,400)
Other segment disclosures:			
Depreciation [2][3]	$ 16,012,853	$ 5,782,931	$ 21,795,784
Intangible amortization [2][3]			7,325,112
Total depreciation and amortization			$ 29,120,896

(1) Other segment items for each reportable segment include general, selling, and other operating expenses, gain on sale of equipment and insurance premiums and claims.

(2) Other profit/(loss) relates to items not included within the Company's measure of Segment Operating profit / (loss), these include corporate and unallocated expenses which were not included within the measures of segment profitability regularly reviewed by the CODM. These include $4.1 million in salaries, wages and benefits, $4.3 million in stock-based compensation, $0.06 million in depreciation, $7.3 million in intangible amortization, $0.9 million in insurance premiums and claims, and $4.2 million in general selling, and other operating expenses.

(3) The amounts of depreciation and amortization disclosed by reportable segment are included within the other segment items captions.

Three Months Ended September 30, 2025	Company Drivers	Subhaulers	Total
Revenue			
Revenue, before fuel surcharge	$ 38,407,257	$ 66,492,924	$ 104,900,181
Fuel surcharge and other reimbursements	2,802,816	4,639,909	7,442,725
Other revenue	507,216	759,629	1,266,845
Lease revenue	—	685,053	685,053
Segment revenue	$ 41,717,289	$ 72,577,515	$ 114,294,804
Total consolidated			$ 114,294,804
Less:			
Salaries, wages and benefits	15,881,900	5,136,587	
Fuel and fuel taxes	6,497,935	—	
Purchased transportation	—	56,851,258	
Truck expenses	6,739,370	—	
Depreciation	5,698,169	1,997,196	
Other segment items [1]	3,675,237	4,560,245	
Segment operating profit	$ 3,224,678	$ 4,032,229	$ 7,256,907
Reconciliation of segment operating profit to income (loss) before income taxes:			
Other profit/(loss) [2]			$ (7,357,655)
Interest expense			(1,682,501)
Acquisition costs			(94,738)
Restructuring charges			(1,901,103)
Other Income, net			113,150
Loss before income taxes			$ (3,665,940)
Other segment disclosures:			
Depreciation [2][3]	$ 5,698,169	$ 1,997,196	$ 7,695,365
Intangible amortization [2][3]			2,454,641
Total depreciation and amortization			$ 10,150,006

(1) Other segment items for each reportable segment include general, selling, and other operating expenses, gain on sale of equipment and insurance premiums and claims.

(2) Other profit/(loss) relates to items not included within the Company's measure of segment operating profit / (loss), these include corporate and unallocated expenses which were not included within the measures of segment profitability regularly reviewed by the CODM. These include $1.3 million in salaries, wages and benefits, $1.9 million in stock-based compensation, $0.02 million in depreciation, $2.5 million in intangible amortization, $0.3 million in insurance premiums and claims, and $1.4 million in general selling, and other operating expenses.

(3) The amounts of depreciation and amortization disclosed by reportable segment are included within the other segment items captions.

Note 15 — Loss per share

Basic loss per share is based upon the weighted average common shares outstanding during each period. Diluted loss per share is based on the basic weighted earnings per share with additional weighted common shares for common stock equivalents. During the nine and three months ended September 30, 2026 and 2025, the Company had outstanding restricted shares of common stock to certain of our employees and directors, under the Company's restricted stock award plans. The diluted shares include the dilutive effect of restricted and performance stock units based on the treasury stock method.

A reconciliation of the numerator (net loss) and denominator (weighted average number of shares outstanding of the basic loss per share) for the nine and three months ended September 30, 2026 and 2025 is as follows:

	Nine months ended September 30, 2026	Three months ended September 30, 2026	Nine months ended September 30, 2025	Three months ended September 30, 2025
Numerator:				
Net loss	$ (20,332,234)	$ (9,946,685)	$ (7,768,204)	$ (3,019,686)
Denominator:				
Weighted-average number of shares of common stock	28,033,351	28,285,966	27,494,922	27,796,148
Basic loss per share	$ (0.73)	$ (0.35)	$ (0.28)	$ (0.11)

The Company excluded 1,116,016, 1,044,849, 1,105,616, and 1,042,341 of RSUs and PSUs from the computation of weighted-average number of shares of common stock in computing the diluted loss per share for the periods presented because including them would have had an anti-dilutive effect for the nine and three months ended September 30, 2026 and 2025, respectively.

Note 16 — Commitments and contingencies

As part of the 2026 Acquisition, the Company assumed certain purchase commitments with equipment manufacturers related to fleet replacement and expansion initiatives. As of September 30, 2026, the Company had outstanding commitments of approximately $11.9 million for the future purchase of 37 units of transportation equipment, with deliveries expected through the first quarter of 2027.

The Company is involved in certain claims and pending litigation primarily arising in the normal course of business. The majority of these claims relate to workers' compensation, auto collision and liability, and physical and cargo damage. The Company expenses legal fees as incurred and accrues for the uninsured portion of contingent losses from these and other pending claims when it is both probable that a liability has been incurred, and the amount of the loss can be reasonably estimated. It is at least reasonably possible that the effect on the financial statements of significant estimates involving contingencies will change within one year of the date of the financial statements due to one or more future confirming events. If such changes occur, they could be material to the financial statements. The Company has disclosed all significant estimates and assumptions that could potentially be affected by future confirming events.

Independent Contractors Misclassification Class Actions

In August 2016, a truck driver who contracted with Tribeca Automotive, Inc. filed a Complaint in Essex County Superior Court of New Jersey, bringing claims on behalf of himself and those similarly situated against Tribeca and its owners. An amended class complaint was filed in April 2022. The putative class alleges that Tribeca misclassified contracted truck drivers as independent contractors, rather than "employees" under applicable law. As a result, the class seeks overtime and unlawful deductions in violation of New Jersey Wage and Hour Law and New Jersey Wage Payment Law. In June 2026, the parties reached a settlement in principle and executed a class settlement agreement providing for a gross settlement amount of up to $4.0 million, in which Tribeca continues to deny liability. In October 2026, the net settlement amount was determined to be $3.1 million and the court approved final settlement, payable in November 2026. We are entitled to indemnification under the Purchase Agreement from the sellers of Tribeca for up to $2.5 million relating to this liability. The Company has accrued the net settlement amount on the balance sheet ending September 30, 2026 as a subsequent event and subsequently paid the net settlement amount on November 13, 2026. *See Note 17.*

In May 2025 and December 2025, respectively, two business owners and truck drivers filed complaints with putative class action claims and representative actions under the Private Attorneys General Act in California state court against certain of the Company's subsidiaries and affiliates. Amended complaints were filed in October 2025 and May 2026, respectively, reducing the scope of claims. The two actions generally allege that certain drivers operating for third-party companies under broker-carrier contracts were improperly classified as independent contractors rather than "employees" under applicable law. Based on these allegations, the plaintiffs seek damages, civil penalties, attorneys' fees, and other relief under California wage and hour laws. The claims asserted in the two actions are substantially similar and involve overlapping factual allegations, putative class populations, and time periods. The Company's subsidiaries deny liability and are vigorously defending this matter.

Former Employee Class Action

In May 2024, a former employee filed a class action lawsuit against Deluxe Auto Carriers, Inc., in Riverside County Superior Court in California. The lawsuit alleges class claims against Deluxe for unpaid minimum and overtime wages, non-compliant meal and rest periods, unreimbursed business expenses, and inaccurate wage statements, among other claims. A class settlement was reached for $400,000, in which Deluxe continues to deny liability. In February 2026, the settlement was approved by the court, and subsequently paid in April 2026 from amounts previously accrued on the Company's consolidated balance sheet. In April 2026, we received full reimbursement from the sellers of Deluxe pursuant to the indemnification provisions of the Purchase Agreement, and no related receivable or liability remained outstanding as of September 30, 2026.

Civil Complaint

In November 2025, a second amended civil complaint was filed in federal court in South Carolina against the Company, its subsidiaries Tribeca Automotive, Inc. ("Tribeca") and Proficient Services, Inc. (f/k/a PAL Stock Acquiror, Inc.) and an individual working on behalf of Tribeca arising out of a vehicular accident involving one of Tribeca's vehicles. In March 2026, the Company settled the case for $3 million in order to avoid the cost, risk and distraction of continued litigation. In May 2026, the settlement was approved by the court and paid from amounts previously accrued on the Company's consolidated balance sheet.

Note 17 — Subsequent Events

The Company has evaluated subsequent events through the date on which this Form 10-Q was filed, which is also the date on which these financial statements were issued.

Indemnification Settlement with Sellers of Tribeca

On October 13, 2026, the Company entered into a settlement agreement with the sellers of Tribeca under the Purchase Agreement dated December 21, 2023 relating to indemnification. Under the settlement, the Tribeca sellers will pay the Company $5.5 million in cash, escrow release and Company's common stock. Because the settlement relates to conditions that existed at September 30, 2026, the Company has reflected it in its condensed consolidated financial statements as of and for the nine and three months ended September 30, 2026.

Other than as described above, there have been no subsequent events that occurred during such period that would require disclosure in the Form 10-Q or would be required to be recognized in the condensed consolidated financial statements as of and for the three months ended September 30, 2026.

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

Special Note Regarding Forward-Looking Statements

The following discussion and analysis should be read in conjunction with the accompanying unaudited consolidated financial statements and related notes and our Annual Report on Form 10-K for the year ended December 31, 2025 (the "Annual Report").

Unless otherwise indicated, the terms the "Company," "we," "us" and "our" refer to Proficient Auto Logistics, Inc. and its subsidiaries as a whole, after giving effect to the Combinations (as defined below) and recent acquisitions.

This Quarterly Report contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, which statements involve substantial risks and uncertainties. Forward-looking statements generally relate to possible or assumed future results of our business, financial condition, results of operations, liquidity, plans and objectives. You can generally identify forward-looking statements because they contain words such as "may," "will," "should," "expects," "plans," "anticipates," "could," "intends," "target," "projects," "contemplates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of these terms or other similar expressions that concern our expectations, strategy, plans or intentions. We have based these forward-looking statements largely on our current expectations and projections regarding future events and trends that we believe may affect our business, financial condition and results of operations. The outcome of the events described in these forward-looking statements is subject to risks, uncertainties and other factors described in the section entitled "Risk Factors" in this Quarterly Report and the Annual Report, and elsewhere in this Quarterly Report and the Annual Report. Accordingly, you should not rely upon forward-looking statements as predictions of future events. We cannot assure you that the results, events and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results, events or circumstances could differ materially from those projected in the forward-looking statements. The risks, uncertainties, and other factors, which are described in more detail herein and in the documents we file with the Securities and Exchange Commission (the "SEC"), include but are not limited to:

- expectations related to synergies, capacity, units moved, geographic footprint and combined company performance;
- costs related to, and the inability to recognize the anticipated benefits of the acquisition of H&A;
- risks related to the business of H&A and unexpected liabilities that may arise in connection with the integration of H&A into our business, including our ability to apply our procedures regarding internal controls over financial reporting to H&A;
- those related to the private offering of the notes and the use of proceeds therefrom and the capped calls transactions;
- the risk that disruptions from the acquisition will harm our business, including current plans and operations;
- the diversion of management's time and attention from ordinary course business operations to integration of H&A;
- potential adverse reactions or changes to business relationships resulting from the acquisition of H&A;
- the outcome of any legal proceedings that may be instituted against the Company in connection with our acquisition of H&A;
- the economic conditions in the global markets in which we operate;
- our ability to successfully implement our business strategy, effectively respond to changes in market dynamics and customer preferences, and achieve the anticipated benefits and associated cost savings of such strategies and actions;
- our ability to recruit and retain qualified drivers, independent contractors and third-party auto transportation and logistics companies;

- our expectations regarding the successful implementation of the Combinations and other acquisitions;
- geopolitical developments and additional changes in international trade policies and relations;
- the effect of any international conflicts or terrorist activities, including the current conflict in the Middle East, and the conflict between Russia and Ukraine, on the United States and global economies in general, the transportation industry, or us in particular, and what effects these events will have on our costs and the demand for our services;
- our ability to manage our network capacity and cost structure for capital expenditures and operating expenses, and match it to shifting and future customer volume levels;
- our ability to compete effectively against current and future competitors;
- our dependence on the automotive industry, which is directly affected by such external factors as general economic conditions in the United States, Canada and Mexico, trade policies, including tariffs, unemployment rates, fuel price volatility, labor shortages or strikes, consumer confidence, government policies, continuing activities of war, terrorist activities and the availability of affordable new car financing;
- our ability to maintain our profitability despite quarterly fluctuations in our results, whether due to seasonality, large cyclical events, or other causes; and our future financial and operating results;
- our expectations regarding the period during which we will qualify as an emerging growth company under the JOBS Act; and
- the sufficiency of our existing cash to fund our future operating expenses and capital expenditure requirements.

We caution you that the foregoing list may not contain all of the forward-looking statements made in this Quarterly Report. In addition, in light of certain risks and uncertainties, the matters referred to in the forward-looking statements contained in this Quarterly Report may not occur. The forward-looking statements made in this document relate only to events as of the date on which the statements are made. 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. We may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements and you should not place undue reliance on our forward-looking statements. We do not assume any obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law.

Business Overview

We are a leading specialized freight company focused on providing auto transportation and logistics services. Formed in connection with the IPO through the combination of five industry-leading operating companies, we operate one of the largest auto transportation fleets in North America with an operating fleet with approximately 1,400 owned assets and employing 1,714 dedicated employees as of September 30, 2026. From our 122 strategically located facilities across the United States and Canada, we offer a broad range of auto transportation and logistics services, primarily focused on transporting finished vehicles from automotive production facilities, marine ports of entry or regional rail yards to auto dealerships around North America. We have developed a differentiated business model due to our scale, breadth of geographic coverage and embedded customer relationships with leading auto original equipment manufacturing companies (“OEMs”). Our customers include nearly all of the global auto manufacturing companies who participate in the North American market. Additional customers include auto dealers, auto auctions, rental car companies and auto leasing companies.

Description of the Combinations

On December 21, 2023, Proficient Auto Logistics, Inc. entered into agreements to acquire in multiple, separate acquisitions, five operating businesses and their respective affiliated entities, as applicable: (i) Delta, (ii) Deluxe, (iii) Sierra, (iv) Proficient Transport, and (v) Tribeca (collectively, the "Founding Companies"). On May 13, 2024, the Company completed the IPO of its common stock, and in connection with the closing of the IPO, the Company also completed the acquisitions of all of the Founding Companies (the "Combinations"). Thereafter, on August 16, 2024, the Company acquired Auto Transport Group, LC, ("ATG," which was converted to a limited liability company after closing), and on November 1, 2024, the Company acquired Utah Truck & Trailer Repair, LLC, ("UTT," which subsequently converted into Proficient Repair Services, LLC), a repair facility located at the ATG headquarters terminal in Ogden, Utah. On April 1, 2025, the Company acquired Brothers Auto Transport, LLC, ("Brothers"), located in Wind Gap, Pennsylvania and on May 27, 2025, the Company acquired PVT Truck & Trailer Repair, LLC, ("PVT") a repair facility located at the Brothers headquarters. These acquisitions expanded the Company's geographic presence and services offered. The Combinations and subsequent acquisitions are accounted for under ASC 805, *Business Combinations*. Under this method of accounting, Proficient Auto Logistics, Inc. is treated as the "accounting acquirer".

H&A Acquisition

On August 13, 2026, the Company completed the acquisition of Hansen & Adkins ("H&A") and MCL McGill ("MCL") and their respective affiliated entities, collectively vehicle logistics companies with a network spanning the United States and Canada. The upfront purchase price in the transaction was $130.0 million, including the assumed debt. Of the approximately $62.6 million remaining purchase price, approximately $2.2 million was paid in shares of Company Common Stock with approximately $60.4 million paid in cash. The terms of the transaction also provide for potential earnout payments of up to approximately $22.1 million, of which $2 million would be payable in shares of Company Common Stock with the remainder payable in cash. The cash portion of the purchase price was paid with available cash resources and borrowings under the Company's existing credit facilities.

Our financial statements are subject to fluctuations in the exchange rates of foreign currencies in relation to the U.S. dollar as the result of MCL acquisition. The fluctuations of foreign currencies had a de minimis impact on net sales and net income at the consolidated and segment basis during the three and nine months ended September 30, 2026 and no impact during the three and nine months ended September 30, 2025.

Senior Convertible Notes due 2033

Concurrent with the 2026 Acquisition, the Company also restructured its debt instruments for efficiency, scalability and interest cost savings. As part of this restructuring, the Company issued $75 million aggregate principal amount of convertible senior notes due 2033 (the "Convertible Notes") in a private offering (the "private offering") to persons reasonably believed to be qualified institutional buyers in reliance on the exemption from registration provided by Section 4(a)(2) under the Securities Act of 1933, as amended. The issuance and sale of the Convertible Notes settled and closed on August 13, 2026. The Convertible Notes are senior, unsecured obligations of the Company and will mature on August 15, 2033, unless earlier repurchased, redeemed or converted.

Financial Statement Components

Revenue

We generate revenue by transporting autos for our customers in OEM contract and spot arrangements, secondary market auto moves, and contract services arrangements. Our OEM contract and spot arrangements provide auto transportation and logistics services through movements of autos over routes across the United States and Canada. Secondary market auto moves are for customers other than OEMs. Our contract services offering uses Company-owned equipment and third-party capacity to service specific customers and provides services through long-term contracts. Our business provides services that are geographically diversified but have similar economic and other relevant characteristics, as they all provide transportation and logistics of automobiles.

We are typically paid a predetermined rate per unit for our services. Consistent with industry practice, our typical customer contracts do not guarantee load levels or equipment availability. This gives us and our customers a certain degree of flexibility in response to changes in auto demand and truck capacity.

Generally, we receive fuel surcharge on the miles moved for which we are compensated by customers. Fuel surcharge revenue is intended to mitigate the effect of price increases over a negotiated base rate per gallon of fuel; however, these revenues may not fully protect us from all fuel price volatility, particularly in times of rapid fuel price increases, due to the lag of the increased price being reflected in fuel surcharges recovery.

Operating Expenses

Our most significant operating expenses vary with miles traveled and include (i) fuel and fuel taxes, (ii) driver related expenses, such as salaries, wages, benefits, training and recruitment, (iii) the cost of purchased transportation that we pay independent contractors and to third-party carriers and (iv) maintenance of our fleet. Expenses that have both fixed and variable components include maintenance and truck expenses and our total cost of insurance and claims. These expenses generally vary with the miles we travel, but also have a somewhat controllable component based on safety, fleet age, efficiency and other factors. Our main fixed costs include depreciation of long-term assets, such as revenue equipment and leasing costs for our service center facilities, the compensation of non-driver personnel and other general and administrative expenses.

We monitor key operating metrics including the volume of units delivered, average revenue per unit and adjusted operating ratio, as applicable to the portions of our business that contract on each of these bases.

Critical Accounting Policies and Estimates

In the ordinary course of business, we have made a number of estimates and assumptions relating to the reporting of results of operations and financial position in the preparation of our financial statements in conformity with GAAP. Actual results could differ significantly from those estimates under different conditions. We believe that the following discussion addresses our most critical accounting policies, which are those that are most important to the portrayal of our financial condition and results of operations and require management's most subjective and complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. See Note 2 of the accompanying consolidated financial statements of the Company for additional information about our critical accounting policies and estimates.

Property and equipment

Property and equipment are carried at cost. Depreciation of property and equipment is computed using the straight-line method for financial reporting purposes and accelerated methods for tax purposes over the estimated useful lives of the related assets (net of estimated salvage value or trade-in value). We generally use estimated useful lives of five to ten years for trucks and trailers, classified as transportation equipment. The depreciable lives of our revenue equipment represent the estimated usage period of the equipment, which may be more or less than the economic lives.

Periodically, we evaluate the useful lives and salvage values of our revenue equipment and other long-lived assets based upon, but not limited to, our experience with similar assets including gains or losses upon dispositions of such assets, conditions in the used equipment market and prevailing industry practices. Changes in useful lives or salvage value estimates, or fluctuations in market values that are not reflected in our estimates, could have a material impact on our financial results. We review our property and equipment whenever events or circumstances indicate the carrying amount of the asset may not be recoverable. An impairment loss equal to the excess of carrying amount over fair value would be recognized if the carrying amount of the asset is not recoverable.

Business combinations — We account for business combinations using the acquisition method pursuant to ASC 805, *Business Combinations*. For each acquisition, we recognize the assets acquired and liabilities assumed at their respective fair values as of the acquisition date. Valuations of certain assets acquired, including customer relationships, developed technology and trade names involve significant judgment and estimation. We use independent valuation specialists to help determine fair value of certain assets and liabilities. Valuations utilize significant estimates, such as forecasted revenues and profits. Changes in these estimates could significantly impact the value of certain assets and liabilities. ASC 805 establishes a measurement period to provide us with a reasonable amount of time to obtain the information necessary to identify and measure various items in a business combination and cannot extend beyond one year from the acquisition date. Measurement period adjustments are recognized in the reporting period in which the adjustments are determined and calculated as if the accounting had been completed as of the acquisition date. We complete the final fair value determination of the assets acquired, and liabilities assumed for each acquired business as soon as practicable within the measurement period, but not to exceed one year from the acquisition date.

Goodwill — Goodwill is recorded when the purchase price paid in a business combination exceeds the fair value of assets acquired and liabilities assumed. Goodwill is reviewed for impairment on an annual basis, or upon an occurrence of an event or changes in circumstances that indicate that the carrying value may not be recoverable. In the absence of any indications of potential impairment, the evaluation of goodwill is performed during the fourth quarter of each year.

Goodwill impairment is the amount by which a reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. When testing goodwill for impairment, we may first perform a qualitative assessment to determine whether the fair value of a reporting unit is less than its carrying amount. We then complete a quantitative impairment test if the qualitative assessment indicates that it is more likely than not that the reporting unit's fair value is less than the carrying value of its assets. If the estimated fair value of the reporting unit exceeds the carrying value, goodwill is not considered impaired, and no additional steps are needed. If, however, the fair value of the reporting unit is less than its carrying value, then the amount of the impairment loss is the amount by which the reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill.

Income taxes — Income taxes are accounted for under the asset-and-liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized as income or expense in the period that includes the enactment date.

We evaluate the need for a valuation allowance on deferred tax assets based on whether we believe that it is more likely than not all deferred tax assets will be realized. A consideration of future taxable income is made as well as on-going prudent feasible tax planning strategies in assessing the need for valuation allowances. In the event it is determined all or part of a deferred tax asset would not be able to be realized, management would record an adjustment to the deferred tax asset and recognize a charge against income at that time.

Our estimates of the potential outcome of any uncertain tax issue are subject to our assessment of relevant risks, facts and circumstances existing at that time. We account for uncertain tax positions in accordance with Accounting Standards Codification ("ASC") 740, Income Taxes, and record a liability when such uncertainties meet the more likely than not recognition threshold. Potential accrued interest and penalties related to unrecognized tax benefits are recognized as a component of income tax expense.

Reportable Segments

Our business is organized into two operating segments, Company Drivers and Subhaulers, which represent the Company's reportable segments. The Company Drivers segment offers automobile transport and contract services under an asset-based model. The Company's Subhaulers segment offers transportation services utilizing an asset-light model focusing on outsourcing transportation of loads to independent contractors and third-party carriers.

Company Drivers Segment

In our Company Drivers segment, we generate revenue by transporting autos for our customers in OEM contract and spot arrangements, secondary market auto moves, and contract services arrangements. Our OEM contract and spot arrangements provide auto transportation and logistics services through movements of autos over routes across the United States and Canada. Secondary market auto moves are for customers other than OEMs. Our contract services offering uses Company-owned equipment to service specific customers and provides services through long-term contracts. Our Company Drivers segment provides services that are geographically diversified but have similar economic and other relevant characteristics, as they all provide Company Drivers carrier services of automobiles. The main factors that affect operating revenue in the Company Drivers Segment are the average revenue per unit received from customers and the number of vehicles transported.

We are typically paid a predetermined rate per unit for our Company Drivers services. Our executed contracts generally contain fixed terms and rates and are often used by our customers with high-service and high-priority freight. We strive to increase our revenues derived from contracts by delivering a high-quality service and continuing to build upon our relationships and reputation with OEMs.

Our contracts with customers generally include a fuel surcharge to account for fluctuating fuel prices. Built into the predetermined contract rates with each customer is a baseline fuel price and when fuel prices rise above this baseline price, our customers compensate us for the variance in the form of additional revenue. If fuel prices drop below the baseline price, we may in turn owe our customers this variance and record a discount. This additional revenue/discount is represented on the Fuel Surcharge and Other Reimbursements line in the consolidated financial statements.

In our Company Drivers segment, our most significant operating expenses vary with miles traveled and include (i) fuel, and (ii) driver-related expenses, such as wages, benefits, training and recruitment. Expenses that have both fixed and variable components include maintenance and truck expenses and our total cost of insurance and claims. These expenses generally vary with the miles we travel, but also have a somewhat controllable component based on safety, fleet age, efficiency and other factors. Our main fixed costs include depreciation of long-term assets, such as trucks and trailers (to which we refer as revenue equipment) and service center facilities, the compensation of non-driver personnel and other general and administrative expenses.

Our Company Drivers segment requires capital expenditures for the purchase of new revenue equipment. We use a combination of financing leases and secured long-term debt to acquire revenue equipment. When we finance revenue equipment acquisitions with either finance leases or long-term debt, the asset and liability are recorded on our consolidated balance sheet, and we record expense under "Depreciation" and "Interest expense". We expect our depreciation and interest expense to increase by changes in the quality and value of our revenue equipment acquired in any given year.

The primary performance indicator in our Company Drivers segment is operating margin (Company Drivers operating revenue, less Company Drivers operating expenses, as a percentage of Company Drivers operating revenue). Operating margin can be impacted by the rates charged to customers, Company Drivers pay, fuel, trucking and maintenance expense.

Subhaulers Segment

In our Subhaulers segment, we generate revenue by independent contractors (who run under our DOT authority(ies)) and independent third-party carriers, which assist in transporting autos for customers in our OEM contract and spot arrangements, and secondary market auto moves. We maintain the customer relationship, including billing and collection, but outsource the transportation of the loads. The main factors that affect operating revenue in our Subhaulers segment are our customers' excess inventory needs, the rates we obtain from customers, the auto volumes we ship through the Subhaulers segment and our ability to secure capacity using independent contractors and third-party carriers.

The most significant expense of our Subhaulers segment, which is primarily variable, is the cost of purchased transportation that we pay to independent contractors and third-party carriers and is included in the "Purchased transportation" line item. This expense generally varies directly with the amount of Subhauler revenue, rates paid to independent contractors and third-party carriers, and current demand and customer shipping needs. Other operating expenses are generally fixed and primarily include the compensation and benefits of non-driver personnel supporting this segment (which are recorded in the "Salaries, wages and benefits" line item).

The primary performance indicator in our Subhaulers segment is operating margin (Subhauler operating revenue, less Subhauler operating expenses, as a percentage of Subhauler operating revenue). Operating margin can be impacted by the rates charged to customers and the rates paid to third-party carriers.

Non-GAAP Financial Measures

We report our financial results in accordance with GAAP. However, management believes that EBITDA and Operating Ratio provide useful information in measuring our operating performance, generating future operating plans and making strategic decisions regarding allocation of capital. Management believes this information presents helpful comparisons of financial performance between periods by excluding the effect of certain non-recurring items.

EBITDA and Operating Ratio do not have a standardized meaning prescribed by GAAP and therefore they may not be comparable to similarly titled measures presented by other companies, and it should not be considered in isolation from, or as a substitute for, financial information prepared in accordance with GAAP.

EBITDA is defined as net income (loss) for the period adjusted for interest expense, income tax benefit and depreciation expense and intangible amortization expense.

Adjusted EBITDA represents net income (loss) plus interest expense, income tax benefit, depreciation expense, intangible amortization expense, share-based compensation expenses, and certain one-time items.

The following table provides a reconciliation of net income, the most closely comparable GAAP financial measure, to EBITDA and Adjusted EBITDA:

	Nine months ended September 30, 2026	Nine months ended September 30, 2025	Three months ended September 30, 2026	Three months ended September 30, 2025
Total operating revenue	$ 352,058,988	$ 325,047,411	$ 148,969,534	$ 114,294,804
Net loss	(20,332,234)	(7,768,204)	(9,946,685)	(3,019,686)
Add back:				
Interest expense	5,878,342	5,091,297	3,049,275	1,682,501
Income tax benefit	(5,884,471)	(1,674,196)	(3,262,370)	(646,254)
Depreciation	22,283,776	21,854,078	7,505,530	7,718,519
Intangible amortization	7,483,785	7,325,112	2,654,281	2,454,641
EBITDA	9,429,198	24,828,087	31	8,189,721
EBITDA margin	2.7%	7.6%	0.0%	7.2%
Add back:				
Stock-based compensation	4,177,627	4,274,717	1,479,297	1,870,211
Acquisition costs	6,449,870	406,545	6,426,134	94,738
Restructuring charges	—	1,901,103	—	1,901,103
Adjusted EBITDA	$ 20,056,695	$ 31,410,452	$ 7,905,462	$ 12,055,773
Adjusted EBITDA margin	5.7%	9.7%	5.3%	10.5%

Operating ratio is calculated as total operating expenses as a percentage of operating revenue.

Adjusted operating ratio is calculated as total operating expenses reduced for share-based compensation expense and amortization of intangibles as a percentage of operating revenue.

The following table provides a reconciliation of total operating revenue and operating (loss) income, to operating margin and adjusted operating margin:

	Nine months ended September 30, 2026	Nine months ended September 30, 2025	Three months ended September 30, 2026	Three months ended September 30, 2025
Total operating revenue	$ 352,058,988	$ 325,047,411	$ 148,969,534	$ 114,294,804
Total operating expenses	366,098,784	327,385,307	152,839,745	114,395,552
Operating (loss) income	(14,039,796)	(2,337,896)	(3,870,211)	(100,748)
Operating ratio	104.0%	100.7%	102.6%	100.1%
Add back:				
Stock-based compensation	4,177,627	4,274,717	1,479,297	1,870,211
Intangible amortization	7,483,785	7,325,112	2,654,281	2,454,641
Adjusted total operating expenses	354,437,372	315,785,478	148,706,167	110,070,700
Adjusted operating ratio	100.7%	97.2%	99.8%	96.3%

Results of Operations for the three months ended September 30, 2026 and 2025

	Three months ended September 30, 2026	Three months ended September 30, 2025
Operating revenue		
Revenue, before fuel surcharge	$ 130,381,608	$ 104,900,181
Fuel surcharge and other reimbursements	16,006,722	7,442,725
Other revenue	1,503,506	1,266,845
Lease revenue	1,077,698	685,053
Total operating revenue	148,969,534	114,294,804
Operating expenses		
Salaries, wages and benefits	35,159,198	22,341,396
Stock-based compensation	1,479,297	1,870,211
Fuel and fuel taxes	16,306,884	6,497,935
Purchased transportation	63,223,804	56,851,258
Truck expenses	10,838,695	6,739,370
Depreciation	7,505,530	7,718,519
Intangible amortization	2,654,281	2,454,641
Loss (Gain) on sale of equipment	(414,936)	(52,597)
Insurance premiums and claims	9,068,386	5,405,410
General, selling, and other operating expenses	7,018,606	4,569,409
Total operating expenses	152,839,745	114,395,552
Operating (loss) income	(3,870,211)	(100,748)
Other income and expense		
Interest expense	(3,049,275)	(1,682,501)
Acquisition costs	(6,426,134)	(94,738)
Restructuring charges	—	(1,901,103)
Foreign currency transaction gain (loss)	(3,748)	—
Other (expense) income, net	140,313	113,150
Total other expense, net	(9,338,844)	(3,565,192)
Loss before income taxes	(13,209,055)	(3,665,940)
Income tax benefit	3,262,370	646,254
Net loss	$ (9,946,685)	$ (3,019,686)

Operating Revenue - The Company generates revenue from two primary sources: transporting freight for customers, including related fuel surcharge revenue and other reimbursements (Company Drivers), and arranging for the transportation of customer freight by independent contractors and third-party carriers (Subhaulers). Company Drivers revenue, before fuel surcharge and other reimbursements, is primarily generated through trucking services provided by the Company's Company Drivers service offerings to OEMs and the secondary market. Subhaulers revenue before fuel surcharge and other reimbursements is primarily generated through brokering freight to third-party carriers. Fuel surcharge and other reimbursements represent additional revenue the Company earns based on mileage driven and other reimbursable costs incurred for which it is compensated by its customers.

The Company's total operating revenue is affected by, among other things, the general level of economic activity in the United States and Canada, customer inventory levels, specific customer demand, the level of capacity in the auto haul, truckload and brokerage industry, the success of its marketing and sales efforts and the availability of drivers and third-party carriers.

The Company disaggregates revenue from contracts with its customers for Company Drivers and Subhaulers operations between (1) revenue, before fuel surcharge and reimbursements and (2) fuel surcharge and reimbursements.

A summary of the Company's revenue generated by type for the periods indicated is as follows:

	Three months ended September 30, 2026	Three months ended September 30, 2025
Operating revenue:		
Company Drivers	$ 59,975,977	$ 38,407,257
Company Drivers fuel surcharge and other reimbursements	6,923,555	2,802,816
Other revenue	317,113	507,216
Total Company Drivers revenue	67,216,645	41,717,289
Subhaulers	70,405,631	66,492,924
Subhaulers fuel surcharge and other reimbursements	9,083,167	4,639,909
Other revenue	1,186,393	759,629
Lease revenue	1,077,698	685,053
Total Subhaulers revenue	81,752,889	72,577,515
Total operating revenue	$ 148,969,534	$ 114,294,804

During the third quarter of 2026, we acquired H&A and MCL which added to our increase in revenue before fuel surcharge. Excluding this acquisition, we experienced a decrease in new vehicle shipments and dealership operations when compared to the third quarter 2025. This decrease reflects some seasonality, with typical plant shutdowns in late summer, as well as pressure on capacity availability of drivers in both segments due to regulatory enforcement and wages that have not kept pace with cost inflation.

In the Company Drivers segment, operating revenues increased by $25.5 million, or 61.2%, to $67.2 million in the third quarter of 2026 compared to $41.7 million in 2025. In the Subhaulers segment, operating revenues increased by $9.2 million, or 12.7%, to $81.8 million in the third quarter of 2026 compared to $72.6 million in 2025. The increase in both segments when compared to the third quarter 2025, is a direct result of the 2026 Acquisition.

Salaries, wages and benefits — Salaries, wages, and benefits consist primarily of compensation for all employees. Salaries, wages, and benefits are primarily affected by the amount paid to Company drivers, which is a function of the units delivered. Salaries, wages and benefits are also affected by employee benefits such as health care and workers' compensation, and to a lesser extent by the number of, and compensation and benefits paid to, non-driver employees.

Salaries, wages and benefits increased by $12.9 million, or 57.8%, to $35.2 million in the three months ended September 30, 2026 compared to $22.3 million in 2025. The increase is a direct result of the 2026 Acquisition.

Stock-based compensation— Stock-based compensation consists primarily of compensation for certain employees, officers, and directors as a key component of our overall compensation strategy.

Stock-based compensation decreased $0.4 million, or 21.1%, to $1.5 million in the three months ended September 30, 2026 compared to $1.9 million in 2025. The decrease is due to an accelerated vesting event in 2025 related to restructuring.

Fuel and fuel taxes — Fuel and fuel taxes consist primarily of diesel fuel expense and fuel taxes for the Company's company-owned equipment. The primary factors affecting the Company's fuel and fuel taxes expense are the cost of fuel per mile and the number of miles driven by Company drivers.

Fuel and fuel taxes increased by $9.8 million, or 150.8%, to $16.3 million in the three months ended September 30, 2026 compared to $6.5 million in 2025. The increase in fuel and fuel taxes was primarily driven the 2026 Acquisition and by significantly higher fuel prices.

Purchased transportation — Purchased transportation consists of the payments the Company makes to independent contractors and third-party carriers.

Purchased transportation increased by $6.3 million, or 11.1%, to $63.2 million in the three months ended September 30, 2026 compared to $56.9 million in 2025. The increase is a direct result of the 2026 Acquisition. Excluding the acquisition, purchased transportation decreased due to the reduced capacity in the industry.

Truck expenses — Truck expenses consist of operating expenses and supplies incurred for ordinary vehicle repairs and maintenance costs, driver on-the-road expenses and tolls.

Truck expenses and supplies are primarily affected by the age of the Company's owned and leased fleet of trucks and trailers, the number of miles driven in a period and driver turnover. Truck expenses increased $4.1 million, or 61.2%, to $10.8 million in the three months ended September 30, 2026 compared to $6.7 million in 2025. The increase is a direct result of the 2026 Acquisition and routine equipment maintenance and repairs and inflationary costs in these areas.

Depreciation and amortization — Depreciation and amortization consist primarily of depreciation for owned trucks and trailers and to a lesser extent computer software amortization. The primary factors affecting these expense items include the size and age of the Company's truck and trailer fleets.

Depreciation and amortization and the loss (gain) on sale of equipment decreased by $0.6 million, or 7.8%, to $7.1 million in the three months ended September 30, 2026 compared to $7.7 million in 2025. The decrease in depreciation and amortization was largely driven by the reclassification of certain equipment to assets held for sale.

Intangible Amortization — Intangible amortization is the amortization of our intangible assets, including customer relationships and trade names, recognized during each acquisition, as applicable.

Intangible amortization increased by $0.2 million, or 8.0%, to $2.7 million in the three months ended September 30, 2026 compared to $2.5 million in 2025. The increase is a direct result of the 2026 Acquisition.

Insurance premiums and claims — Insurance premiums and claims consist primarily of retained amounts for liability (personal injury and property damage), physical damage and cargo damage, as well as insurance premiums. The primary factors affecting the Company's insurance premiums and claims are the frequency and severity of accidents, trends in the development factors used in the Company's accruals and developments in large, prior year claims. The number of accidents tends to increase with the miles we travel and weather conditions. With our significant retained amounts, insurance claims expense may fluctuate significantly and impact the cost of insurance premiums and claims from period-to-period, and any increase in frequency or severity of claims or adverse loss development of prior period claims would adversely affect the Company financial condition and results of operations.

Insurance premiums and claims increased by $3.7 million, or 68.5%, to $9.1 million in the three months ended September 30, 2026 compared to $5.4 million in 2025. The increase is due to the 2026 Acquisition and higher premiums at renewal during the quarter in the Proficient legacy business.

General, selling, and other operating expenses — General, selling, and other operating expenses consist primarily of legal and professional services fees, occupancy and other costs. General, selling, and other operating expenses increased by $2.4 million, or 52.2%, to $7.0 million in the three months ended September 30, 2026 compared to $4.6 million in 2025. The increase is a direct result of the 2026 Acquisition.

Interest expense, net — Interest expense, net consists of cash interest, amortization of deferred financing fees, net of any interest income received from financial institutions. Interest expense, net increased by $1.3 million, or 76.5%, to $3.0 million in the three months ended September 30, 2026 compared to $1.7 million in 2025. The increase is a direct result of the 2026 Acquisition.

Operating ratio — Operating ratio is calculated as total operating expenses as a percentage of operating revenue. The Company's operating ratio increased by 2.5 percentage points to 102.6% in 2026 as compared to 100.1% in 2025. The increase was due primarily to increased fuel cost, insurance and truck expenses that outweighed the increased fuel surcharge revenue impact and revenue from the 2026 Acquisition. See "Non-GAAP Financial Measures" section for the Company's calculation of operating ratio.

Adjusted operating ratio — Adjusted operating ratio is calculated as total adjusted operating expenses (operating expenses less stock-based compensation and intangible amortization) as a percentage of operating revenue. The Company's adjusted operating ratio increased by 3.5 percentage points to 99.8% in 2026 as compared to 96.3% in 2025. The increase was due primarily to increased fuel cost, insurance and truck expenses that outweighed the increased fuel surcharge revenue impact and revenue from the 2026 Acquisition. See "Non-GAAP Financial Measures" section for the Company's calculation of adjusted operating ratio.

EBITDA — EBITDA decreased by $8.2 million, or 100.0%, to $0.0 million in 2026 compared to $8.2 million in 2025. The decrease was due primarily to increased fuel cost, insurance and truck expenses that outweighed the increased fuel surcharge revenue impact and revenue from the 2026 Acquisition. See "Non-GAAP Financial Measures" section for the Company's calculation of EBITDA.

Adjusted EBITDA — Adjusted EBITDA represents net income (loss) plus interest expense, income tax benefit, depreciation expense, intangible amortization expense, and share-based compensation expenses. Adjusted EBITDA decreased by $4.2 million, or 34.7%, to $7.9 million in 2026 compared to $12.1 million in 2025. The decrease was due primarily to increased fuel cost, insurance and truck expenses that outweighed the increased fuel surcharge revenue impact and revenue from the 2026 Acquisition. See "Non-GAAP Financial Measures" section for the Company's calculation of Adjusted EBITDA.

Results of Operations for the nine months ended September 30, 2026 and 2025

	Nine months ended September 30, 2026	Nine months ended September 30, 2025
Operating revenue		
Revenue, before fuel surcharge	$ 312,594,172	$ 299,887,668
Fuel surcharge and other reimbursements	32,922,759	19,672,820
Other revenue	3,414,238	3,260,712
Lease revenue	3,127,819	2,226,211
Total operating revenue	352,058,988	325,047,411
Operating expenses		
Salaries, wages and benefits	78,129,637	64,086,192
Stock-based compensation	4,177,627	4,274,717
Fuel and fuel taxes	32,120,692	19,343,046
Purchased transportation	160,821,857	163,008,119
Truck expenses	25,094,041	19,027,640
Depreciation	22,283,776	21,854,078
Intangible amortization	7,483,785	7,325,112
Loss (Gain) on sale of equipment	(373,889)	(278,911)
Insurance premiums and claims	20,447,337	15,746,601
General, selling, and other operating expenses	15,913,921	12,998,713
Total operating expenses	366,098,784	327,385,307
Operating loss	(14,039,796)	(2,337,896)
Other income and expense		
Interest expense	(5,878,342)	(5,091,297)
Acquisition costs	(6,449,870)	(406,545)
Restructuring charges	—	(1,901,103)
Foreign currency transaction gain (loss)	(3,748)	—
Other income, net	155,051	294,441
Total other expense, net	(12,176,909)	(7,104,504)
Loss before income taxes	(26,216,705)	(9,442,400)
Income tax benefit	5,884,471	1,674,196
Net loss	$ (20,332,234)	$ (7,768,204)

A summary of the Company's revenue generated by type for the periods indicated is as follows:

	Nine months ended September 30, 2026	Nine months ended September 30, 2025
Operating revenue		
Company Drivers	$ 130,750,028	$ 107,502,795
Company Drivers fuel surcharge and other reimbursements	12,957,325	6,873,576
Other revenue	778,054	1,468,403
Total Company Drivers revenue	144,485,407	115,844,774
Subhaulers	181,844,144	192,384,873
Subhaulers fuel surcharge and other reimbursements	19,965,434	12,799,244
Other revenue	2,636,184	1,792,309
Lease revenue	3,127,819	2,226,211
Total Subhaulers revenue	207,573,581	209,202,637
Total operating revenue	$ 352,058,988	$ 325,047,411

Though seasonally adjusted annual rate of automotive sales ("SAAR") year to date is comparable to 2025, the available capacity to move traffic decreased following market exits that resulted from several quarters of sub-seasonal demand, rate pressure, regulatory enforcement and fuel price increases that negatively impacted driver and carrier compensation. As a consequence, the available capacity was not sufficient to ship as many vehicles as in the prior year. Revenue generated during the quarter by the acquired companies totaled $51.0 million, without which, comparable revenue from the Proficient legacy business was down 15.7% year over year.

In the Company Drivers segment, operating revenues increased by $28.7 million, or 24.8%, to $144.5 million in the nine months ended September 30, 2026 compared to $115.8 million in 2025. The increase is a direct result of the 2026 Acquisition. In the Subhaulers segment, operating revenues decreased by $1.6 million, or 0.8%, to $207.6 million in the nine months ended September 30, 2026 compared to $209.2 million in 2025. The decrease in Subhauler revenues was driven by the Company utilizing more Company drivers during the slow periods to perform hauls compared to third-party carriers. In addition, our third-party carriers were impacted by reduced capacity.

Salaries, wages and benefits increased by $14.0 million, or 21.8%, to $78.1 million in the nine months ended September 30, 2026 compared to $64.1 million in 2025. The increase is a direct result of the 2026 Acquisition.

Stock-based compensation decreased $0.1 million, or 2.3%, to $4.2 million in the nine months ended September 30, 2026 compared to $4.3 million in 2025. The decrease is due to an accelerated vesting event in 2025 related to restructuring offset by additional restricted and performance-based awards that were issued in 2026.

Fuel and fuel taxes increased by $12.8 million, or 66.3%, to $32.1 million in the nine months ended September 30, 2026 compared to $19.3 million in 2025. The increase in fuel and fuel taxes was primarily driven by 2026 Acquisition and by higher fuel prices.

Purchased transportation decreased by $2.2 million, or 1.3%, to $160.8 million in the nine months ended September 30, 2026 compared to $163.0 million in 2025. The decrease in purchased transportation was driven by lower subhauler revenue in the 2026 period, resulting from the impact of reduced capacity.

Truck expenses increased $6.1 million, or 32.1%, to $25.1 million in the nine months ended September 30, 2026 compared to $19.0 million in 2025. The increase is a direct result of the 2026 Acquisition and due to routine equipment maintenance and repairs and inflationary costs in these areas.

Depreciation and amortization and the loss (gain) on sale of equipment increased by $0.3 million, or 1.4%, to $21.9 million in the nine months ended September 30, 2026 compared to $21.6 million in 2025. The small increase in depreciation and amortization is driven by the 2026 Acquisition.

Intangible amortization increased by $0.2 million, or 2.7%, to $7.5 million in the nine months ended September 30, 2026 compared to $7.3 million in 2025. The increase is a direct result of the 2026 Acquisition.

Insurance premiums and claims increased by $4.7 million, or 29.9%, to $20.4 million in the nine months ended September 30, 2026 compared to $15.7 million in 2025. The increase is a direct result of the 2026 Acquisition.

General, selling, and other operating expenses increased by $2.9 million, or 22.3%, to $15.9 million in the nine months ended September 30, 2026 compared to $13.0 million in 2025. The increase in general, selling, and other operating expenses was primarily due to the 2026 Acquisition.

Interest expense, net increased by $0.8 million, or 15.7%, to $5.9 million in the nine months ended September 30, 2026 compared to $5.1 million in 2025. The increase is a direct result of the 2026 Acquisition.

The Company's operating ratio for the first nine months increased by 3.3 percentage points to 104.0% in 2026 as compared to 100.7% in 2025. The increase was primarily due to increased salary, fuel cost, insurance and truck expenses that outweighed the increased fuel surcharge revenue impact and revenue from the 2026 Acquisition. See "Non-GAAP Financial Measures" section for the Company's calculation of operating ratio.

The Company's adjusted operating ratio for the first nine months increased by 3.5 percentage points to 100.7% in 2026 as compared to 97.2% in 2025. The increase was primarily due to increased fuel cost, insurance and truck expenses that outweighed the increased fuel surcharge revenue impact and revenue from the 2026 Acquisition. See "Non-GAAP Financial Measures" section for the Company's calculation of operating ratio.

EBITDA for the first nine months decreased by $15.4 million, or 62.1%, to $9.4 million in 2026 compared to $24.8 million in 2025. The decrease was primarily due to increased fuel cost, insurance and truck expenses that outweighed the increased fuel surcharge revenue impact and revenue from the 2026 Acquisition. See "Non-GAAP Financial Measures" section for the Company's calculation of EBITDA.

Adjusted EBITDA for the first nine months decreased by $11.3 million, or 36.0%, to $20.1 million in 2026 compared to $31.4 million in 2025. The decrease was primarily due to increased fuel cost, insurance and truck expenses that outweighed the increased fuel surcharge revenue impact and revenue from the 2026 Acquisition. See "Non-GAAP Financial Measures" section for the Company's calculation of Adjusted EBITDA.

Liquidity and Capital Resources

Overview

Our business requires substantial amounts of cash to cover operating expenses as well as to fund capital expenditures, working capital changes, principal and interest payments on our debt obligations, lease payments and tax payments when we generate taxable income. Recently, we have financed our capital requirements with cash flows from operating activities, and direct equipment financing. From now through the end of 2027, we estimate capital expenditures on revenue equipment will be between $20.0 million and $25.0 million to maintain our desired average age of the fleet. We plan to finance these purchases through a combination of operating cash flows and direct equipment financing.

We believe we can fund our expected cash needs in the short-term, including debt repayment and the capital purchases described above, with projected cash flows from operating activities, borrowings under our credit facility and direct debt and lease financing that we believe to be available for at least the next 12 months. Over the long-term, we expect that we will continue to have significant capital requirements, which may require us to seek additional borrowings or lease financing. The availability of financing will depend upon our financial condition and results of operations as well as prevailing market conditions.

Sources of liquidity

In May 2024, we raised money in the capital markets through an IPO and then subsequently in June 2024 sold additional shares through an over-allotment option. The approximately $30 million remaining after acquiring the Founding Companies was used to support operations for 2024 and to partially fund strategic acquisitions. We anticipate that our cash flows from operations and available direct equipment financing will provide adequate liquidity for our planned capital expenditures during fiscal year 2026. For any new capital expenditures in 2026 and beyond that exceed our cash flow from operations, we have negotiated credit agreements with financial institutions in amounts sufficient to fund planned purchases. While we generally control the timing and extent of our capital expenditures, there is no assurance that we can obtain financing arrangements on terms acceptable to the Company.

Pinnacle LOC

On November 8, 2024, the Company and certain of its subsidiaries, as borrowers, entered into a Loan and Security Agreement (the "Loan Agreement") with Pinnacle Bank, as lender (the "Lender"). The Loan Agreement provides for (i) a delayed draw term loan facility of up to an aggregate principal amount of $25 million (the "Term Loan Facility") and (ii) a revolving credit facility of up to an aggregate principal amount of $20.0 million at any time outstanding (the "Revolving Credit Facility"), in each case, subject to the terms of the Loan Agreement. Proceeds of the Term Loan Facility may be used to refinance existing indebtedness of the Company, to finance certain permitted acquisitions and fees and expenses related thereto, and to pay fees and transaction expenses associated with the Loan Agreement. Proceeds of the Revolving Credit Facility may be used for general working capital, to pay the fees and transaction expenses associated with the Loan Agreement, and to pay any of the Company's obligations thereunder. The loans under the Loan Agreement may be voluntarily prepaid at any time, in whole or in part, without premium or penalty. The maturity date of the Term Loan Facility is April 2031, and the maturity date of the Revolving Credit Facility is November 8, 2029.

Borrowings under the Loan Agreement bear interest at a rate per annum equal to Term SOFR for an interest period equal to one month plus a margin of (x) 2.50% per annum with respect to any loan under the Term Loan Facility and (y) 2.20% per annum with respect to any loan under the Revolving Credit Facility. In addition, the Company is required to pay an unused line fee on the unutilized commitments with respect to the Revolving Credit Facility at the rate of 0.15% per annum.

The Loan Agreement contains customary affirmative and negative covenants, including covenants that restrict the ability of the Company and its subsidiaries to, among other things, incur debt, grant liens on their respective assets, engage in mergers and other fundamental changes, make investments, enter into transactions with affiliates, pay dividends and make other restricted payments, prepay other indebtedness and sell assets, in each case subject to certain exceptions set forth in the Loan Agreement. The Loan Agreement also requires the Company to maintain (i) a Fixed Charge Coverage Ratio (as defined in the Loan Agreement) of greater than or equal to 1.45 to 1.00 and (ii) a Funded Debt to Adjusted EBITDA Ratio (as defined in the Loan Agreement) of less than or equal to 3.75 to 1.00, in each case, as of the end of each fiscal quarter. The Company was in compliance with its debt covenants as of September 30, 2026.

All obligations under the Loan Agreement and the guarantees of those obligations are secured, subject to certain exceptions, by a security interest on substantially all of the property of the Company and its subsidiaries.

On April 1, 2025, the Company drew $9.0 million to fund the cash portion of the Brothers Auto Transport, LLC acquisition. In August 2026, the Company drew an additional $5 million from the available line of credit to fund the cash portion of the acquisition of H&A and MCL. On September 30, 2026, the amounts outstanding on the term debt and the line of credit were approximately $18.3 million and $9.9 million, respectively.

Cash Flows

For the nine months ended September 30, 2026, cash flows used in operating activities were $0.6 million, a $26.3 million decrease compared to the nine months ended September 30, 2025. We had a decrease in adjusted operating income of $15.9 million to $9.2 million in the nine months ended September 30, 2026 compared to $25.1 million in the prior period, after accounting for non-cash adjustments, which was further reduced by an increase in working capital of $10.30 million when comparing period over period.

For the nine months ended September 30, 2026, cash flows used in investing activities were $56.2 million compared to $11.2 million for the nine months ended September 30, 2025. The increase of $45.00 million when comparing periods is mainly due to the 2026 Acquisition.

For the nine months ended September 30, 2026, cash flows provided by financing activities were $54.3 million, which was an increase of $69.7 million compared to the nine months ended September 30, 2025. This increase is attributable to the net proceeds from the issuance of $72.1 million convertible senior notes, partially offset by $9.4 million paid for the capped calls transactions.

Emerging Growth Company Status

We qualify as an "emerging growth company," as defined in the JOBS Act. As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable generally to public companies. These provisions include: (i) reduced disclosure about our executive compensation arrangements; (ii) not being required to hold advisory votes on executive compensation or to obtain stockholder approval of any golden parachute arrangements not previously approved; (iii) an exemption from the auditor attestation requirement in the assessment of our internal control over financial reporting pursuant to the Sarbanes-Oxley Act of 2002; and (iv) an exemption from compliance with the requirements of the Public Company Accounting Oversight Board regarding the communication of critical audit matters in the auditor's report on the financial statements.

We may take advantage of these exemptions for up to five years or such earlier time that we are no longer an emerging growth company. We would cease to be an emerging growth company on the date that is the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of $1.235 billion or more; (ii) the last day of our fiscal year following the fifth anniversary of the date of the completion of the IPO; (iii) the date on which we have issued more than $1.0 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the SEC. We may choose to take advantage of some but not all of these exemptions. We have taken advantage of reduced reporting requirements in this Quarterly Report. Accordingly, the information contained herein may be different from the information you receive from other public companies in which you hold stock. Additionally, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this exemption and, therefore, while we are an emerging growth company, we will not be subject to new or revised accounting standards at the same time that they become applicable to other public companies that are not emerging growth companies. As a result of this election, our financial statements may not be comparable to those of other public companies that comply with new or revised accounting pronouncements as of public company effective dates. We may choose to early adopt any new or revised accounting standards whenever such early adoption is permitted for private companies.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

The Company's market risk includes the potential loss arising from adverse changes in foreign currency exchange rate, interest rates and commodity prices.

Interest rate risk

Changes in interest rates affect the amount of interest due on our variable rate debt. As of September 30, 2026, we had variable rate borrowings on the Term Debt of $18.3 million and $9.9 million under our Revolving Line of Credit. We currently use Term *SOFR* as a reference rate for our variable rate debt, and any future increases in Term *SOFR* will inherently result in an increase in interest expense and cash paid toward interest. We performed a sensitivity analysis to determine the effect of interest rate fluctuations on our interest expense. A hypothetical one percentage point increase in Term *SOFR* would result in an increase to interest expense of $228,931 over 12 months based on amounts outstanding and interest rates in effect as of October 1, 2026.

Inflation and Fuel Cost

Most of the Company's operating expenses are inflation-sensitive, with inflation generally producing increased costs of operations. Historically, the Company has limited the effects of inflation on its business through increases in freight rates and certain cost controls. The most relevant items impacted by inflation to the Company are the cost to insure and maintain the fleet. Significant inflation has been experienced in insurance and claims costs related to health insurance and claims as well as auto liability insurance and claims. Significant price increases in revenue equipment have impacted the cost for the Company to acquire new equipment. The cost increases have also impacted the cost of parts for equipment repairs and maintenance, inclusive of tires. Over the long term, general economic growth and industry supply and demand conditions have allowed increases in rates charged to customers, although these rate increases have significantly lagged the increases in tractor prices and related depreciation expense.

In addition to inflation, significant fluctuations in fuel prices can adversely affect the Company's operating results and profitability. The Company has attempted to limit the effects of increases in fuel prices through certain cost control efforts and the fuel surcharge programs administered by customers. The Company receives fuel surcharge revenue on substantially all moves, though it passes this revenue through in many instances in its Subhauler segment. Although the Company historically has been able to recover most long-term increases in fuel prices and operating taxes from customers in the form of surcharge and higher rates, these arrangements generally do not fully protect the Company from short-term fuel price increases or continued rising price environments, as has recently occurred with Middle East conflict and the resulting fuel price spike. Additionally, the Company does not receive fuel surcharge on empty miles.

Item 4. Controls and Procedures

Disclosure Controls and Procedures

Our management, with the participation of our chief executive officer and chief financial officer, evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2026. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the SEC. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Based on this evaluation of our disclosure controls and procedures as of September 30, 2026, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures were not effective.

Notwithstanding the material weakness in our internal control over financial reporting, our Chief Executive Officer and Chief Financial Officer have concluded that our Condensed Consolidated Financial Statements present fairly, in all material respects, our financial position, results of operations and cash flows in accordance with GAAP.

In connection with the preparation of the Company's audited financial statements for the year ended December 31, 2025, a material weakness in the Company's internal controls over financial reporting was identified and, if our remediation is not effective, or if we fail to maintain an effective system of internal controls over financial reporting in the future, we may not be able to accurately or timely report our financial condition or results of operations, which may adversely affect investor confidence and profitability.

We have identified a material weakness in the Company's internal controls over financial reporting. A material weakness is a deficiency, or a combination of deficiencies, in internal controls over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. The material weakness identified was related to IT general controls in Company's financial systems and closing processes in the period after our IPO and prior to full integration of systems, including account reconciliations and review surrounding the close process.

Remediation steps have been taken to improve the Company's internal controls over financial reporting to address the underlying causes, including completion of systems integration to a common enterprise transportation management and accounting platform, designing and implementing increased controls, increasing oversight and review of technical systems and engaging third-parties to support control design and testing. As of December 31, 2025, all operating companies have been converted to one accounting technology platform and in June 2026, we moved all repair facilities into one fleet maintenance platform. Having all companies operating under one accounting technology platform has allowed the Company to implement improved internal controls related to financial reporting and has given us more oversight over the financial information being generated. We hired an independent consulting firm, who has assisted with redesigning our internal controls over financial reporting and information technology and we anticipate being completed with all remaining remediation steps in 2026.

While we believe that our efforts have improved the Company's internal controls over financial reporting, the implementation and oversight of control measures is ongoing and will require validation and testing of the design and operating effectiveness of internal controls over a sustained period of financial reporting cycles. If, however, we are unable to successfully remediate the existing or any future material weakness, the accuracy of our financial reporting may be adversely affected, which could cause investors to lose confidence in our financial reporting, and our share price and profitability may decline as a result.

Changes in Internal Control Over Financial Reporting

On August 13, 2026, the Company completed the acquisition of H&A and MCL. Consistent with SEC guidance that an assessment of a recently acquired business may be omitted from management's evaluation of internal control over financial reporting for up to a year from the acquisition and from the annual management report on internal control over financial reporting for the year of acquisition, our management intends to exclude from such evaluation an assessment of the effectiveness of our internal control over financial reporting related to H&A and MCL. We are in the process of reviewing the internal control structure of H&A and MCL and, if necessary, will make appropriate changes as we continue to integrate H&A and MCL into our overall internal control over financial reporting process.

Except as mentioned in the prior paragraph and for the enhancements to controls to address the material weakness discussed above, there were no changes to our internal control over financial reporting during the three months ended September 30, 2026, that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

Part II - Other Information

Item 1. Legal Proceedings

The Company is involved from time to time in various legal proceedings and governmental and regulatory proceedings that arise in the ordinary course of business. The Company does not believe that such litigation, claims, and administrative proceedings will have a material adverse impact on the Company's financial position or results of operations.

Item 1A. Risk Factors

Our business is subject to various risks and uncertainties. You should review and consider carefully the risks and uncertainties described in more detail in Item 1A of Part I of our Annual Report on Form 10-K for the year ended December 31, 2025. There were no material changes from the risk factors previously disclosed in Part I, Item 1A "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2025, and in Part II, Item 1A "Risk Factors" in our Quarterly Report on Form 10-Q for the period ended June 30, 2026, except for the following:

The 2026 Capped Calls may affect the value of our common stock.

In connection with the issuance of our Convertible Notes, we entered into the 2026 Capped Calls with the option counterparties (the "option counterparties"). The 2026 Capped Calls cover, subject to customary adjustments substantially similar to those applicable to our Convertible Notes, the number of shares of our common stock initially underlying our Convertible Notes. The 2026 Capped Calls are expected generally to reduce the potential dilution to our common stock upon any conversion of our Convertible Notes and/or offset any cash payments we are required to make in excess of the principal amount of converted notes, as the case may be, with such reduction and/or offset subject to a cap.

The option counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions following the pricing of our Convertible Notes and prior to the maturity of our Convertible Notes (and are likely to do so during any observation period related to a conversion of our Convertible Notes or, to the extent we exercise the relevant election under the 2026 Capped Calls, following any repurchase or redemption of our Convertible Notes). This activity could also cause or avoid an increase or a decrease in the market price of our common stock.

We are subject to counterparty risk with respect to the 2026 Capped Calls.

The option counterparties are financial institutions, and we will be subject to the risk that one or more of the option counterparties may default or otherwise fail to perform, or may exercise certain rights to terminate, their obligations under the 2026 Capped Calls. Our exposure to the credit risk of the option counterparties will not be secured by any collateral.

Global economic conditions have from time to time resulted in the actual or perceived failure or financial difficulties of many financial institutions and could adversely affect the option counterparties' performance under the 2026 Capped Calls. If an option counterparty becomes subject to insolvency proceedings, we will become an unsecured creditor in those proceedings with a claim equal to our exposure at that time under the 2026 Capped Calls with such option counterparty. Our exposure will depend on many factors but, generally, our exposure will increase if the market price or the volatility of our common stock increases. In addition, upon a default or other failure to perform, or a termination of obligations, by an option counterparty, we may suffer adverse tax consequences or more dilution than we currently anticipate with respect to our common stock. We can provide no assurances as to the financial stability or viability of the option counterparties.

In addition, the terms of the 2026 Capped Calls may be subject to adjustment, modification or, in some cases, renegotiation in the event of certain corporate and other transactions. The 2026 Capped Calls may not operate as we intend in the event that we are required to adjust the terms of such instruments as a result of transactions in the future or in the event of other unanticipated developments that may adversely affect the functioning of the 2026 Capped Calls.

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

On August 13, 2026, the Company completed the acquisition of Hansen & Adkins Auto Transport ("H&A") pursuant to that certain Equity Purchase Agreement (the "H&A Purchase Agreement"), dated August 10, 2026, by and between Proficient Services, Inc., a wholly owned subsidiary of the Company and H&A CN Acquisition, Ltd., Hansen & Adkins Auto Transport, Inc., Hansen & Adkins Auto Logistics, Inc., Royal Truck Leasing, LLC, Hansen & Adkins Canada Ltd., Steven Hansen, Louie Adkins, Hansen & Adkins, Inc., Royal Holdco, LLC, The Steven Hansen Separate Property Trust, The Louie Adkins 2024 Trust, and Steven Hansen, in his capacity of the Seller Representative (collectively, the "Sellers"). Pursuant to the terms of the H&A Purchase Agreement, at the effective time of the acquisition, the Company paid an upfront purchase price of approximately $130.0 million, including assumed debt of approximately $73.5 million and issued 421,354 shares of common stock of the Company. The offer and sale of these shares pursuant to the H&A Purchase Agreement were made in reliance on the exemption afforded by Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act") and corresponding provisions of state securities or "blue sky" laws. These shares were not registered under the Securities Act or any state securities laws and may not be reoffered or resold in the United States absent registration with the Securities and Exchange Commission or an applicable exemption from the registration requirements. The issuance and sale of these shares did not involve a public offering and were made without general solicitation or general advertising.

Also on August 13, 2026, the Company completed a private offering of $75.0 million aggregate principal amount of 5.500% convertible senior notes due 2033 (the "notes") to persons reasonably believed to be qualified institutional buyers in reliance on the exemption from registration provided by Section 4(a)(2) under the Securities Act. The notes are convertible into shares of the Company's common stock as described in the Company's Current Report on Form 8-K filed on August 14, 2026.

On March 2, 2026, the Board of Directors authorized a share repurchase program under which we may repurchase up to $15.0 million of our common stock. The repurchase program authorizes the purchase of our common stock from time to time in the open market, in block transactions, in privately negotiated transactions, through accelerated stock repurchase programs, through option or other forward transactions or otherwise, all in compliance with applicable laws, rules, regulations and other restrictions.

The following table sets forth our stock repurchases during the three-month period ended September 30, 2026.

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under the Plans or Programs
July 1 – July 31, 2026	—	—	—	—
August 1 – August 31, 2026	98,801	$ 5.56	98,801	$ 13,932,685
September 1 – September 30, 2026	—	—	—	
Total	98,801		98,801	

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

(c) None of our officers or directors, as defined in Rule 16a-1(f), adopted, modified, or terminated a "Rule 10b5-1 trading arrangement" or a "non-Rule 10b5-1 trading arrangement," as defined in Item 408 of Regulation S-K, during the three months ended September 30, 2026.

Item 6. Exhibits

Exhibit Number	
2.1* †	Equity Purchase Agreement, dated as of August 10, 2026, by and among Proficient Services, Inc., H&A CN Acquisition, Ltd., Hansen & Adkins Auto Transport, Inc., Hansen & Adkins Auto Logistics, Inc., Royal Truck Leasing, LLC, Hansen & Adkins Canada Ltd., Steven Hansen, Louie Adkins, Hansen & Adkins, Inc. and Royal Holdco, LLC, The Steven Hansen Separate Property Trust, The Louie Adkins 2024 Trust, and Steven Hansen, in his capacity of the Seller Representative.
4.1*	Indenture, dated as of August 13, 2026, between Proficient Auto Logistics, Inc. and U.S. Bank Trust Company, National Association, as trustee.
4.2*	Form of 5.500% Convertible Senior Note due 2033 of Proficient Auto Logistics, Inc.
10.1*	Form of Subscription Agreement for Proficient Auto Logistics, Inc. Convertible Senior Notes due 2033, dated as of August 10, 2026.
10.2*	Form of Capped Call Transaction confirmation of Proficient Auto Logistics, Inc.
31.1	Certification by principal executive officer pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification by principal financial officer pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification by principal executive officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification by principal financial officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	Inline XBRL Instance Document - the instance document does not appear on the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File - the cover page interactive data file does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document

* Filed herewith.

† Certain schedules (and similar attachments) to this Exhibit have been omitted in accordance with Regulation S-K Item 601(a)(5). The registrant agrees to furnish supplementally a copy of any omitted schedule (or similar attachment) to the SEC upon its request.

SIGNATURE

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

Proficient Auto Logistics, Inc.

Date: November 16, 2026

By: /s/ Richard O'Dell
Richard O'Dell
Chief Executive Officer
(Principal Executive Officer)

By: /s/ Brad Wright
Brad Wright
Chief Financial Officer and Secretary
(Principal Financial and Accounting Officer)

Exhibit 2.1

EQUITY PURCHASE AGREEMENT

dated as of

August 10, 2026

by and among

Proficient Services, Inc.,

H&A CN Acquisition, Ltd.,

Hansen & Adkins Auto Transport, Inc.,

Hansen & Adkins Auto Logistics, Inc.,

Royal Truck Leasing, LLC,

Hansen & Adkins Canada Ltd.,

Steven Hansen,

Louie Adkins,

Hansen & Adkins, Inc.

and Royal Holdco, LLC,

The Steven Hansen Separate Property Trust,

The Louie Adkins 2024 Trust,

and

Steven Hansen, in his capacity of the Seller Representative

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EQUITY PURCHASE AGREEMENT

EQUITY PURCHASE AGREEMENT (this "**Agreement**"), dated as of August 10, 2026, by and among Proficient Services, Inc., a Delaware corporation ("**US Buyer**"), H&A CN Acquisition, Ltd., a British Columbia company and wholly-owned subsidiary of US Buyer ("**Canada Buyer**", and together with US Buyer, "**Buyers**", and individually, a "**Buyer**"), Hansen & Adkins Auto Transport, Inc., a California corporation ("**H&A Transport**"), Hansen & Adkins Auto Logistics, Inc., a California corporation ("**H&A Logistics**"), Royal Truck Leasing, LLC, a California limited liability company ("**Royal Leasing**"), Hansen & Adkins Canada Ltd., a British Columbia company ("**H&A Canada**", together with H&A Transport, H&A Logistics and Royal Leasing, each a "**Company**" and together, the "**Companies**"), Steven Hansen ("**Hansen**"), Louie Adkins ("**Adkins**"), Hansen & Adkins, Inc., a California corporation ("**H&A**"), **Royal Holdco, LLC**, a California limited liability company ("**Royal Holdco**"), Steven Hansen Separate Property Trust, a California trust dated February 28, 2022 ("**Hansen Trust**"), and The Louie Adkins 2024 Trust, a California trust dated July 25, 2024 ("**Adkins Trust**", and together with Hansen Trust, the "**HAC Trusts**", and the HAC Trusts, together with Hansen, Adkins, H&A and Royal Holdco, each, a "**Seller**", and collectively, the "**Sellers**"), and Steven Hansen, as the Seller Representative. Each of Canada Buyer, US Buyer, H&A Transport, H&A Logistics, Royal Leasing, H&A Canada, Hansen, Adkins, H&A, Royal Holdco, Hansen Trust and Adkins Trust is sometimes referred to in this Agreement as a "**Party**," and collectively as the "**Parties**."

RECITALS:

WHEREAS, H&A owns all of the issued and outstanding Equity Interests of each of H&A Transport (the "**HAT Equity Interests**") and H&A Logistics (the "**HAL Equity Interests**");

WHEREAS, Royal Holdco owns all of the issued and outstanding Equity Interests of Royal Leasing (the "**Royal Equity Interests**");

WHEREAS, the HAC Trusts own all of the issued and outstanding Equity Interests of H&A Canada ("**HAC Shares**", and together with the HAT Equity Interests, the HAL Equity Interests and the Royal Equity Interests, the "**H&A Equity**");

WHEREAS, (a) US Buyer desires to purchase from H&A, all of the HAT Equity Interests and HAL Equity Interests and from Royal Holdco, all of the Royal Equity Interests; and (b) Canada Buyer desires to purchase from the HAC Trusts, all of the HAC Shares, upon the terms and subject to the conditions hereinafter set forth;

WHEREAS, prior to or concurrently with the execution of this Agreement, Buyers have caused the Break-Up Escrow Amount to be deposited with the Escrow Agent pursuant to the Escrow Agreement; and

WHEREAS, prior to Closing, Sellers will have caused H&A Transport and H&A Logistics to convert from California corporations to California limited liability companies.

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein (the receipt and sufficiency of which is hereby acknowledged and agreed), the Parties agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01. *Definitions.* In this Agreement, the following words and expressions shall have the following meanings:

"**2026 EBITDA**" means the consolidated net income of the Company Entities for the fiscal year ended December 31, 2026, calculated on a standalone basis in accordance with the Accounting Principles and without giving effect to the transactions contemplated by this Agreement, excluding the following items: (a) interest expense, (b) income tax expense, (c) depreciation, (d) amortization, (e) prepayment penalties or costs incurred in connection with the repayment of Indebtedness, (f) Transaction Expenses, (g) the effect of any change in accounting methods implemented by Buyers or their Affiliates after the Closing, and (h) the items set forth on Schedule 1.01(a).

"**Accounting Principles**" means (a) the specific accounting principles, practices and methodologies set forth on Schedule 1.01(b) (the "**Specific Policies**"); (b) to the extent not addressed in and not inconsistent with the Specific Policies, the past practices, and accounting methods, policies, and principles of the Company Entities used in preparation of the Financial Statements, in each case solely to the extent consistent with GAAP as applied in the preparation of the audited consolidated balance sheet as of December 31, 2025 and the related audited consolidated statements of operations, cash flows and changes in members' equity for the fiscal year ended December 31, of the Companies (and, where GAAP permits more than one permissible method, the method used in the preparation of the Financial Statements shall govern) (collectively, the "**Past Practices**"); and (c) to the extent not addressed in and not inconsistent with the Specific Policies or the Past Practices, GAAP as in effect as of the Closing Date. For the avoidance of doubt, the Specific Policies shall take precedence over the Past Practices and GAAP as in effect as of the Closing Date, and the Past Practices shall take precedence over GAAP as in effect as of the Closing Date.

"**Action**" means any claim, dispute, action, cause of action (by any private right of action of any Person or by any Governmental Authority), suit (whether in contract or tort or otherwise) or audit, litigation (whether at law or in equity, whether civil or criminal), assessment, arbitration, investigation, hearing, mediation, charge, complaint, inquiry, judgment, examination, subpoena or other proceeding, in each case, to, from, by or before any Governmental Authority or arbitration body.

"**Adjustment Amount**" has the meaning set forth in Section 2.06(d).

"**Adjustment Escrow Amount**" means $2,000,000.

"**Adkins Trust**" has the meaning set forth in the preamble.

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person; provided that, unless otherwise specified, the Company Entities shall not be considered Affiliates of the Sellers. For purposes of this definition, "**control**" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "**controlling**" and "**controlled**" have correlative meanings under this Agreement.

"**Affordable Care Act**" means the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, and the guidance and regulations issued thereunder.

"**Agreement**" has the meaning set forth in the preamble.

"**Allocation Schedule**" has the meaning set forth in Section 2.05.

"**Amended and Restated Leases**" means those certain Real Property Leases with Related Parties entered into concurrent with the Closing, in each case prepared in accordance with Section 6.10 in the form of the Lease Form with the Lease Form Addendum attached thereto as an exhibit and incorporated therein.

"**Anti-Corruption Law**" has the meaning set forth in Section 3.23(a).

"**Applicable Law**" means, with respect to any Person, all applicable transnational, domestic or foreign (including multi-national) federal, state, provincial, municipal, territorial or local laws, rules, regulations, codes, ordinances, directives, statutes, treaties, conventions and other agreements between states, or between states and the European Union or other supranational bodies, rules of common law, and all other laws of, or having an effect in, any jurisdiction from time to time, and any Order, treaties or principles of common law, judgment or decree or other pronouncement of any Governmental Authority having jurisdiction with respect to such Person.

"**Auditor**" has the meaning set forth in Section 2.06(c).

"**Balance Sheet**" has the meaning set forth in Section 3.07.

"**Balance Sheet Date**" means the date of the Balance Sheet.

"**Base Purchase Price**" means $130,000,000.

"**Bonus Plans**" has the meaning set forth in Section 7.04.

"**Breach**" means any breach of, default (or an event which, with or without notice or lapse of time or both, would constitute a default) under or failure to perform or comply with, any covenant, provision, term or other obligation or right.

"**Break-Up Escrow Amount**" means $5,000,000.

"**Business Day**" means a day, other than a Saturday or Sunday or public holiday in New York, New York or Los Angeles, California, on which commercial banks are open in New York, New York and Los Angeles, California for general commercial business.

"**Business Intellectual Property Rights**" has the meaning set forth in Section 3.16(c).

"**Buyer Indemnified Parties**" has the meaning set forth in Section 11.02.

"**Buyer Non-Recourse Parties**" has the meaning set forth in Section 12.01(b).

"**Buyer Release Parties**" has the meaning set forth in Section 12.01(c).

"**Buyers**" has the meaning set forth in the preamble.

"**Canada Buyer**" has the meaning set forth in the preamble.

"**Carve-Out Equipment**" has the meaning set forth in Section 6.09(a).

"**Cash**" means, with respect to any Person as of any time, the cash, or cash equivalents held by or on behalf of such Person at such time (other than any restricted cash or cash equivalents that are subject to contractual or legal restrictions on the ability to freely transfer or use such cash), and shall include checks, ACH transactions and other wire transfers and drafts deposited or available for deposit for the account of such Person at such time and shall be calculated net of issued but uncleared checks, ACH transactions and other wire transfers and drafts written or issued by such Person at such time, in each case calculated in accordance with the applicable provisions in the Accounting Principles. For purposes of calculating Cash, Canadian dollars will be converted to United States dollars using an average of the exchange rates published three (3) Business Days prior to the Closing Date by the Bank of Canada. For the avoidance of doubt, any Cash used to pay down any Transaction Expenses between 11:59 p.m. (Pacific Time) on the day immediately preceding the Closing Date and immediately prior to the Closing shall be excluded from the calculation of Cash.

"**Change in Control Payment**" means any transaction, retention, change in control or similar bonuses, severance payments and other Company Service Provider-related change of control payments, in any case payable by any Company Entity as of or after the Closing Date (including the employer portion of any withholding, payroll, employment or similar Taxes, if any, associated therewith whether payable on the Closing Date or at a later time, and whether payable by any Company Entity) as a result of, or in connection with, the consummation of the transactions contemplated by this Agreement (including, for the avoidance of doubt, any amount payable to Jim Stock pursuant to the Severance and Change in Control Agreement, dated as of May 1, 2026). Notwithstanding anything herein to the contrary, a severance payment for a Company Service Provider (including the employer portion of any withholding, payroll, employment or similar Taxes associated therewith) that is triggered by the occurrence of (i) the transactions contemplated by this Agreement, followed by (ii) a subsequent termination at or after the Closing Date of such Company Service Provider's employment with any Company Entity shall not be deemed a Change in Control Payment, unless such employee has the right to resign and collect severance as a result of the transactions contemplated by this Agreement, whether such right arises on the Closing Date or at a later time, without any additional act or omission by Buyers or any of their Affiliates.

"**Claim Notice**" has the meaning set forth in Section 11.05(a).

"**Closing**" has the meaning set forth in Section 2.03.

"**Closing Cash**" has the meaning set forth in Section 2.06.

"**Closing Cash Payment**" means a cash amount equal to the Estimated Closing Purchase Price *minus* the Adjustment Escrow Amount *minus* the Expense Fund Amount *minus* the Closing Stock Consideration Amount.

"**Closing Date**" has the meaning set forth in Section 2.03.

"Closing Fleet Adjustment Amount" means an amount, which may only be negative, in the event that the Sellers deliver to Buyers fewer than the Minimum Fleet Amount, the sum of the proceeds derived from each Truck sold by any Company Entity in excess of the number of Trucks the Company Entities would otherwise have been permitted to sell in order for the Sellers to have delivered the Minimum Fleet Amount at Closing, calculated based on (a) those Trucks sold closest to the Closing and working backwards in time and (b) the Companies' Net Driver Amount.

"**Closing Indebtedness**" has the meaning set forth in Section 2.06.

"**Closing Net Working Capital**" has the meaning set forth in Section 2.06.

"**Closing Net Working Capital Adjustment Amount**" means an amount, which may be positive or negative, equal to (a) Closing Net Working Capital *minus* (b) Target Net Working Capital.

"**Closing Purchase Price**" means the Base Purchase Price in cash, *plus* (a) the Closing Net Working Capital Adjustment Amount (which may be positive or negative), *minus* (b) Closing Indebtedness, *plus* (c) Closing Cash, *minus* (d) Closing Transaction Expenses, each as finally determined pursuant to Section 2.06.

"**Closing Stock Consideration Amount**" means $3,000,000, representing the portion of the Stock Consideration Amount payable in Stock Consideration Shares at the Closing in accordance with Section 2.04(b)(i)(C).

"**Closing Transaction Expenses**" has the meaning set forth in Section 2.06.

"**Closing Year Bonus**" has the meaning set forth in Section 7.04.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Companies**" has the meaning set forth in the preamble.

"**Companies**' **Net Driver Amount**" means an amount equal to (a) the Company Entities' actual employee driver headcount, *minus* (b) twenty-five (25), and in the case of clause (a), determined as of immediately prior to Closing.

"**Company Benefit Plan**" means each "employee benefit plan" within the meaning of Section 3(3) of ERISA (whether or not subject to ERISA) and all other compensation and benefits plans, policies, trust funds, programs, arrangements or payroll practices, including Multiemployer Plans, and each other stock purchase, stock appreciation, stock option, restricted stock, phantom stock, profit sharing, retirement, pension, supplemental pension, savings, severance, retention, employment, consulting, commission, change-of-control, collective bargaining, bonus, incentive, deferred compensation, loan, fringe benefit, insurance, welfare, post-retirement health or welfare, health, medical, dental, life, tuition refund, service award, company car, scholarship, relocation, disability, accident, sick pay, sick leave, supplemental unemployment benefit, accrued leave, vacation, holiday, termination, unemployment, restrictive covenant, and other benefit plan, policy, trust fund, program, arrangement or payroll practice, relating to current or former Company Service Providers, whether or not subject to ERISA (including any related funding mechanism now in effect or required in the future), whether formal or informal, oral or written, funded or unfunded, insured or self-insured, registered or unregistered, in each case, that is sponsored, established, maintained, contributed to or required to be contributed to by any of the Company Entities, or under which any of the Company Entities has any current or potential obligation or liability.

"**Company Entities**" means each of the Companies and each of their respective Subsidiaries.

"**Company Fundamental Warranties**" means the representations and warranties contained in Sections 3.01 (*Existence and Power*), 3.02 (*Subsidiaries*), 3.03 (*Authorization*), 3.05(a) (*Non-Contravention*), 3.06 (*Capitalization*) and 3.22 (*Finders' Fees*).

"**Company Intellectual Property Rights**" means all Intellectual Property Rights owned or purported to be owned by the Company Entities.

"**Company Service Provider**" means each individual who is a current or former director, officer, employee, independent contractor, worker or other service provider of any Company Entity.

"**Company Source Code**" has the meaning set forth in Section 3.16(g).

"**Competition Act**" means the Competition Act (Canada), R.S.C., 1985, c. C-34.

"**Competitive Business**" has the meaning set forth in Section 6.08(b).

"**Computer Systems**" has the meaning set forth in Section 3.16(h).

"**Confidential Information**" has the meaning set forth in Section 6.06.

"**Confidentiality Agreements**" means (a) that certain Mutual and Nondisclosure Confidentiality Agreement, dated as of January 21, 2026, between Parent and H&A Canada, (b) that certain Mutual and Nondisclosure Confidentiality Agreement, dated as of January 21, 2026, between Parent and Royal Leasing, (c) that certain Mutual and Nondisclosure Confidentiality Agreement, dated as of December 22, 2025, between Parent and H&A, (d) that certain Mutual and Nondisclosure Confidentiality Agreement, dated as of January 21, 2026, between Parent and MCL McGill Carriers L.T.D., and (e) that certain Clean Team Confidentiality Agreement, dated as of July 23, 2026, by and among Parent, H&A, H&A Canada and Royal Leasing.

"**Continuation Period**" has the meaning set forth in Section 7.02.

"**Continuing Employee**" has the meaning set forth in Section 7.01.

"**Contract**" means any and all legally binding written and unwritten agreements, contracts, subcontracts, deeds, arrangements, purchase orders, licenses, sublicenses, leases, subleases, instruments, indentures, promissory notes or other legally binding commitments or undertakings, and all amendments thereof.

"**Contributor**" has the meaning set forth in Section 3.16(e).

"**COVID Actions**" means any actions that any Company Entity reasonably and in good faith determined are or were necessary or prudent for such Company Entity to take in order to comply with any quarantine, "shelter in place", "stay at home", workforce reduction, social distancing, shut down, closure, sequester, vaccination requirement, safety or similar health and safety Applicable Law, directive, guidance or recommendation promulgated by any Governmental Authority, including the Centers for Disease Control and Prevention, the European Centre for Disease Prevention and Control and the World Health Organization, in each case, in connection with or related to any epidemic, pandemic or disease outbreaks (or any worsening or escalation thereof), in each case, of COVID-19.

"**COVID-19**" means SARS-CoV-2 or COVID-19, and any evolutions or mutations thereof.

"**D&O Tail Policy**" has the meaning set forth in Section 6.04.

"**Data Protection Laws**" means all Applicable Laws pertaining to data protection, data privacy, data security, cybersecurity, cross-border data transfer, and general consumer protection laws as applied in the context of data privacy, data breach notification, electronic communication, telephone and text message communications, marketing by email or other channels, and other similar laws.

"**Data Protection Requirements**" means (i) Data Protection Laws; (ii) Privacy Policies; (iii) any Contracts or codes of conduct relating to the collection, access, use, storage, disclosure, transmission, or cross-border transfer of Personal Data; and (iv) the Payment Card Industry Data Security Standard.

"**Data Systems**" means computer, electronic or telecommunications or network systems of any variety (including databases, websites, hardware, software, networks, software-as-a-service, storage, switching and interconnection devices and mechanisms, whether on-premises or provided as a service by a third party).

"**Deficit Amount**" has the meaning set forth in Section 2.06(e)(ii).

"**Determination Date**" has the meaning set forth in Section 2.06(c).

"**Disclosure Schedule**" means the disclosure schedule with respect to this Agreement delivered by the Companies to Buyers on the date hereof.

"**Dispute Notice**" has the meaning set forth in Section 11.05(b).

"**Disputed Items**" has the meaning set forth in Section 2.06(c).

"**Draft Allocation**" has the meaning set forth in Section 8.04.

"**Earnout Amount**" means, in the event that 2026 EBITDA is finally determined pursuant to Section 2.07 to be in excess of the Minimum EBITDA Amount, then the amounts derived from the formula set forth on Schedule 1.01(a) (the "**Earnout Amount Calculation Schedule**"), shall be the Earnout Amount. In the event that 2026 EBITDA is finally determined pursuant to Section 2.07 to be less than the Minimum EBITDA Amount, the Earnout Amount shall instead be zero (0) dollars.

"**Earnout Amount Calculation Schedule**" has the meaning set forth in the definition of "Earnout Amount".

"**Earnout Determination Date**" has the meaning set forth in Section 2.07(b).

"**Earnout Disputed Items**" has the meaning set forth in Section 2.07(b).

"**Earnout Notice of Disagreement**" has the meaning set forth in Section 2.07(b).

"**Earnout Statement**" has the meaning set forth in Section 2.07(a).

"**Earnout Stock Consideration Amount**" means $2,000,000, representing the portion of the Stock Consideration Amount payable in Stock Consideration Shares following the Closing in accordance with Section 2.07(c).

"**Effect**" has the meaning set forth in the definition of "Material Adverse Effect".

"**Environmental Laws**" means any Applicable Laws concerning the protection of human health or the environment (including air, surface water, groundwater, sediment, land, surface or subsurface strata, and natural resources), including Applicable Laws (i) imposing liability in connection with cleanup, investigation or remediation relative to any Release or threatened Release, (ii) relating to exposure to Hazardous Substances and protection of worker health and safety, and (iii) otherwise relating to the environmental aspects of the manufacture, processing, distribution, use, treatment, storage, disposal, emission, transport, or handling of Hazardous Substances.

"**Environmental Permit**" means any Permit required by or issued pursuant to any Environmental Law.

"**Equipment**" means all leasehold improvements, machinery, equipment, spare parts, furniture, fixtures, office equipment, supplies, maintenance equipment and supplies, materials, and other items of tangible personal property of any type or kind used, held for use or useful in the conduct of the businesses of the Company Entities or the operation thereof (but not including any inventory or Trucks).

"**Equipment Lease**" means a Contract for the lease of Equipment or for the purchase of Equipment under a conditional sales or title retention agreement.

"**Equity Interests**" means any (a) shares or units of capital stock or voting securities, (b) membership interests or units, (c) other interest or participation (including phantom shares, units or interests) that confers on a Person the right to receive a share of the profits and losses of, or distribution of assets of, the issuing entity, (d) subscriptions, calls, warrants, options, or commitments of any kind or character relating to, or entitling any Person or entity to purchase or otherwise acquire any of the interests in clauses (a) - (d), or any other equity securities or (e) securities convertible into or exercisable or exchangeable for any of the interests in clauses (a) - (d) or any other equity securities.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

"**ERISA Affiliate**" means each entity, trade or business that is, or was at the relevant time, a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 4001(b)(1) of ERISA that includes or included any of the Company Entities, or that is, or was at the relevant time, a member of the same "controlled group" as any of the Company Entities pursuant to Section 4001(a)(14) of ERISA.

"**Escrow Agent**" means Wilmington Trust, National Association.

"**Escrow Agreement**" means the escrow agreement, dated as of the date hereof, by and among Buyers, the Seller Representative and the Escrow Agent.

"**Estimated Closing Cash**" has the meaning set forth in Section 2.05.

"**Estimated Closing Indebtedness**" has the meaning set forth in Section 2.05.

"**Estimated Closing Net Working Capital**" has the meaning set forth in Section 2.05.

"**Estimated Closing Purchase Price**" means the Base Purchase Price in cash, *plus* (a) Estimated Net Working Capital Adjustment Amount (which may be positive or negative), *minus* (b) Estimated Closing Indebtedness, *plus* (c) Estimated Closing Cash, *minus* (d) Estimated Transaction Expenses.

"**Estimated Net Working Capital Adjustment Amount**" means an amount, which may be positive or negative, equal to (a) Estimated Closing Net Working Capital *minus* (b) Target Net Working Capital.

"**Estimated Transaction Expenses**" has the meaning set forth in Section 2.05.

"**Excluded Assets and Liabilities**" has the meaning set forth in Section 6.09(a).

"**Expense Fund**" has the meaning set forth in Section 6.07(e).

"**Expense Fund Amount**" means $500,000.

"**Export Control Laws**" has the meaning set forth in Section 3.25(b).

"**FCPA**" has the meaning set forth in Section 3.23(a).

"**Final Allocation**" has the meaning set forth in Section 8.04.

"**Final Closing Statement**" has the meaning set forth in Section 2.06.

"**Financial Statements**" has the meaning set forth in Section 3.07.

"**Financing**" means, collectively, the debt note financing provided to Buyers pursuant to the M&T Loan Documents.

"**Foreign Benefit Plan**" has the meaning set forth in Section 3.19(k).

"**Fraud**" means with respect to the making of any representation or warranty set forth in this Agreement or in any certificate delivered pursuant hereto, that, (a) was false when made; (b) was made with the knowledge that such representation or warranty was false when made, with such individual making such representation or warranty with the specific intention of inducing Buyers to enter into this Agreement; and (c) was justifiably relied upon by a Party in entering into this Agreement, which reliance caused such Party to suffer actual damage by reason of such justifiable reliance.

"**GAAP**" means generally accepted accounting principles in the United States.

"**Generative AI Tools**" means any machine learning, deep learning and other artificial intelligence technology or similar tools, including large language models, neural networks and other tools or methodologies capable of creating various types of new content (such as source code, text, images, audio, and synthetic data) based on inputs or prompts.

"**Governing Documents**" means, as applicable, with respect to any Person, such Person's (i) Articles, Notice of Articles, certificate or articles of incorporation, formation or organization or any similar document adopted or filed in connection with the formation, creation, organization or continued existence of any Person, (ii) bylaws, operating agreement, limited liability company agreement, partnership agreement or similar document and (iii) any amendment of the foregoing.

"**Governmental Authority**" means any transnational, national or foreign federal, state, provincial, territorial, municipal or local government (including any subdivision, court, administrative agency, regulatory body or commission or other authority thereof), or any quasi-governmental or private body exercising any regulatory, importing or other governmental or quasi-governmental authority, including any Taxing Authority, as well as any self-regulatory bodies.

"**H&A**" has the meaning set forth in the preamble.

"**H&A Canada**" has the meaning set forth in the preamble.

"**H&A Equity**" has the meaning set forth in the recitals.

"**H&A Logistics**" has the meaning set forth in the preamble.

"**H&A Transport**" has the meaning set forth in the preamble.

"**HAC Shares**" has the meaning set forth in the recitals.

"**Hansen**" has the meaning set forth in the preamble.

"**Hansen Trust**" has the meaning set forth in the preamble.

"**Hazardous Substances**" means any material, chemical, substance, pollutant, contaminant, waste or any toxic, radioactive or otherwise hazardous substance or material, as such terms are defined in, or regulated or subject to standards of conduct, or that may give rise to liability pursuant to, any Environmental Law.

"**Income Tax**" means any Tax that is based on the net income, profits or gains of the taxpayer (however denominated), including the U.S. and the Canadian federal income tax and Taxes assessable under the ITA, any gross receipts, business franchise, withholding or similar tax imposed in lieu of Taxes denominated as "income taxes", and any withholding or similar obligation to collect income Taxes in connection with amounts paid or owing to creditors, stockholders, customers, employees, non-residents, members or other third parties.

"**Increase Amount**" has the meaning set forth in Section 2.06(e)(i).

"**Indebtedness**" means all obligations (including in respect of outstanding principal and accrued and unpaid interest) of the Company Entities, without duplication, in respect of (a) indebtedness for borrowed money, (b) obligations evidenced by bonds, notes, debentures, debt securities or other similar instruments, (c) finance lease obligations that are required to be capitalized in accordance with the Accounting Principles (without giving effect to ASC 842), (d) all reimbursement, payment or similar obligations, contingent or otherwise, under acceptance, letter of credit or similar facilities, in each case, to the extent drawn, (e) all obligations secured by any Lien (other than Permitted Liens), including any Liens (other than Permitted Liens) existing on the Smyrna Property, whether or not indebtedness secured thereby has been assumed, (f) all guaranties of obligations of another Person or in respect of any of the foregoing, (g) all premiums, penalties, indemnities, fees and expenses required to be paid in respect of any of the foregoing, and any interest (accrued and unpaid), breakage costs and change of control payments required to be paid in connection with clause (e), (h) (i) any earned but unpaid vacation time, sick leave and other paid time off arising out of Hansen's, Barry Williams' or Adkins' employment by any Company Entity for any period prior to the Closing Date, (ii) any earned but unpaid compensation (including salary, commissions and bonuses) arising out of Barry Williams' employment by any Company Entity for any period prior to the Closing Date and (iii) any outstanding severance obligations with respect to any Company Service Provider for any period prior to the Closing Date, in each case, together with the employer portion of any withholding, payroll, employment or similar Taxes, (i) earnout and other deferred purchase price obligations (in each case, computed as if all the criteria or other conditions of such "earn out," incentive or similar provision, together with any gross-up payment, was satisfied), (j) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (k) all obligations under interest rate, currency swap or other hedging transactions (valued at the termination value thereof), and (l) deferred revenue; provided, that any prepayment penalties required to be paid or offered in respect of any repayment of such amounts or otherwise in connection with the transactions contemplated by this Agreement (other than with respect to clause (e)), shall be borne solely by Buyers and shall not constitute Indebtedness hereunder; provided, further, that, for the avoidance of doubt, "Indebtedness" shall not include (i) any obligations owed solely by one or more of the Company Entities to one or more of the other Company Entities, (ii) any amount included in Transaction Expenses, (iii) the operating leases set forth on Section 1.01(a) of the Disclosure Schedule (solely to the extent that none of the Truck purchases described on Section 1.01(b) of the Disclosure Schedule are completed through sale leasebacks or other such structures that would result in the creation of an operating lease treatment), (iv) standby letters of credit (solely to the extent not drawn upon), (v) deferred tax liabilities and assets, (vi) accrued claims, which for the avoidance of doubt will be included in the calculation of Net Working Capital hereunder, or (vii) any other liabilities not constituting borrowed money or finance leases, which, for the avoidance of doubt will be included in the calculation of Net Working Capital. Indebtedness for borrowed money incurred and used to purchase the Trucks set forth on Section 1.01(b) of the Disclosure Schedule after August 1, 2026 shall be excluded from "Indebtedness" and shall remain in place without adjustment to the Purchase Price.

"**Insurance or Other Proceeds**" has the meaning set forth in Section 11.08.

"**Insurance Policies**" has the meaning set forth in Section 3.26.

"**Intellectual Property Rights**" means any and all intellectual property rights or proprietary rights of any kind, type or nature, including any trademark, service mark, trade name, rights in logos, trade dress and other source identifiers, domain name, mask work, invention, patent, Trade Secret, copyright, software, moral rights, database rights, rights in designs, industrial designs, rights in confidential information, or know-how (in each case whether registered or unregistered, and including any (i) registrations or applications for registration of any of the foregoing, (ii) goodwill associated with the foregoing or (iii) tangible embodiments of the foregoing), in each case anywhere in the world.

"**Intended Tax Treatment**" has the meaning set forth in Section 8.02.

"**IRS**" means the Internal Revenue Service.

"**ITA**" means the Income Tax Act (Canada), as amended, including the regulations made thereunder.

"**knowledge of the Company**" or "**Company's knowledge**" or any other similar knowledge qualification in this Agreement means the actual knowledge of Steven Hansen, Louie Adkins and Jim Stock and the knowledge such Persons would have following reasonable inquiry of their respective direct reports.

"**Lease Form**" means the AIR CRE Standard Industrial/Commercial Single-Tenant Lease – Net form attached hereto as Exhibit A.

"**Lease Form Addendum**" means the Addendum to Lease attached hereto as Exhibit B.

"**Leased Real Property**" has the meaning set forth in Section 3.15(b).

"**Lien**" means, with respect to any property or asset, any mortgage, charge, pledge, claim, adverse ownership interest, lien, assignment, hypothecation, security interest, title retention or any other security agreement or arrangement in respect of such property or asset.

"**LLC Conversions**" means the conversion of each of H&A Transport and H&A Logistics from a California corporation to a California limited liability company, in each case in accordance with Applicable Law and effected after the date hereof and prior to the Closing Date.

"**Lock-Up Agreement**" means the lock-up agreement to entered into by Hansen as of even date herewith, in the form attached hereto as Exhibit C.

"**Losses**" means losses, Actions, damages, settlements, judgments, awards, fines, fees (including reasonable attorneys' fees), cost of defense, charges, liabilities, penalties and reasonable out-of-pocket costs and expenses (including the cost of enforcing any right to indemnification pursuant to ARTICLE 11, the cost of pursuing any insurance providers (other than in connection with the R&W Policy), and reasonable costs of investigation, remediation or other response actions); provided, that Losses shall exclude punitive damages except to the extent actually awarded to a third Person (other than a Buyer Indemnified Party or any of its Affiliates) in connection with a Third Party Claim.

"**M&T Loan Documents**" means the credit agreement, notes, guaranties, security agreements and each other agreement, instrument and document evidencing or governing the senior debt financing provided to Buyers by Manufacturers and Traders Trust Company in connection with the transactions contemplated by this Agreement.

"**Material Adverse Effect**" means any change, effect, event, condition, circumstance, matter, occurrence, state of facts or developments (an "**Effect**"), that, individually or in the aggregate, has had or would reasonably be expected to have a material adverse effect on (x) the Companies' and the Sellers' ability, taken as a whole, to consummate the Closing or (y) the condition, business, assets, properties or results of operations of the Company Entities, taken as a whole, excluding, in the case of clause (y), and, solely with respect to clauses (e), (g) and (h) below, clause (x), any Effect, directly or indirectly, resulting from or arising out of (a) changes or prospective changes in GAAP or other accounting requirements or principles applicable to any industry in which any Company Entity operates, or in the interpretation or enforcement thereof, after the date hereof, (b) changes in the financial, securities, currency, capital or credit markets or in general economic, business, regulatory or political conditions (including changes in interest rates, inflation, tariffs, exchange rates and commodity, fuel or energy prices) or the bankruptcy, insolvency or other similar credit events relating to any client, customer, supplier or vendor of any Company Entity, (c) changes to Applicable Law, or in the interpretation or enforcement thereof, after the date hereof, or changes or conditions generally affecting any industry in which any Company Entity operates, (d) any changes in geopolitical conditions, the outbreak or escalation of hostilities, any actual or threatened acts of war, sabotage or terrorism, or any escalation or worsening of any such acts of war, sabotage or terrorism, any acts of God or any natural disasters (including hurricanes, tornadoes, floods, earthquakes, wildfires and weather-related events) or any pandemic, epidemic (including COVID-19 or other outbreaks of illness or public health event or any COVID Actions) or force majeure event or any governmental responses thereto, (e) the negotiation or execution of this Agreement, the announcement or pendency of the transactions contemplated hereby, the identity of Buyers or any facts or circumstances relating to Buyers (as opposed to any other Person) or the announcement or other disclosure of Buyers' plans or intentions with respect to the conduct of any of the businesses of the Company Entities after the Closing, including the effect of any of the foregoing on the relationships, contractual or otherwise, of the Company Entities with clients, customers, employees, suppliers, vendors, service providers or Governmental Authorities (including the failure to obtain any consents in connection with the transactions contemplated hereby), (f) any failure to meet any internal or analysts' projections, forecasts, budgets, estimates or predictions in respect of financial performance or operating metrics ending on or after the date of this Agreement, or any change in the market price or trading volume of the Parent Common Stock or of any securities of any Company Entity (it being understood that the Effects giving rise or contributing to such failure or change that are not otherwise excluded from the definition of "Material Adverse Effect" may be taken into account in determining whether there has been a Material Adverse Effect), (g) any action taken (or omitted to be taken) with the specific written consent or at the written request of Buyers, or as expressly required by this Agreement or any other Transaction Agreement, or (h) any Breach of this Agreement by Buyers, except, solely with respect to clauses (a), (b), (c) or (d), to the extent the Company Entities, taken as a whole, are materially disproportionately affected thereby relative to other participants in the industry or industries in which the Company Entities operate (in which case only the incremental materially disproportionate effect or effects may be taken into account in determining whether there has been a Material Adverse Effect). Notwithstanding the foregoing, for purposes of Section 9.01(b)(iii), no Effect shall constitute, or be taken into account in determining whether there has occurred, a Material Adverse Effect unless such Effect is continuing as of the Closing Date and is reasonably expected to be materially adverse to the Company Entities, taken as a whole, over a period of not less than twelve (12) months following the Closing Date.

"**Material Contracts**" has the meaning set forth in Section 3.11(a).

"**Material Customer**" means the top ten (10) customers of the Company Entities (based on revenue generated during the twelve months ended on the date of the Balance Sheet) set forth in Section 1.01(c)(i) of the Disclosure Schedule.

"**Material Supplier**" means the top ten (10) suppliers of the Company Entities (based on the aggregate amount paid by the Company Entities to such suppliers during the twelve months ended on the date of the Balance Sheet) set forth in Section 1.01(c)(ii) of the Disclosure Schedule.

"**MCL**" means McGill Carriers Ltd., a British Columbia corporation.

"**Minimum EBITDA Amount**" means $23,070,965.

"**Minimum Fleet Amount**" has the meaning set forth in Section 2.04(a)(ix).

"**Multiemployer Plan**" means each Company Benefit Plan that is a "multiemployer plan" as defined in Section 3(37) or 4001(a)(3) of ERISA or Section 414(f) of the Code.

"**Net Working Capital**" means, as of any date, (i) the aggregate value of the consolidated current assets line items set forth on Schedule 1.01(c) as of such date *minus* (ii) the aggregate value of the consolidated current liabilities line items set forth on Schedule 1.01(c) as of such date, in each case, calculated in accordance with the Accounting Principles; provided that (x) for the avoidance of doubt, amounts included in the calculations of Indebtedness, Cash and Transaction Expenses shall not be included in Net Working Capital, (y) Net Working Capital shall be calculated excluding the impact of intercompany accruals, receivables, accounts or other balances owed by any of the Company Entities to any of the other Company Entities and (z) Net Working Capital shall be calculated excluding any deferred Tax assets and deferred Tax liabilities.

"**Notice of Disagreement**" has the meaning set forth in Section 2.06(c).

"**OFAC**" has the meaning set forth in the definition of "Sanction(s)."

"**Off-the-Shelf Software Licenses**" means non-exclusive shrink wrap or click wrap software licenses for non-customized, generally commercially available off-the-shelf software on standard terms for which a Company Entity has paid less than $150,000 for each such license or is obligated to pay less than $100,000 per year in the case of each license paid on a recurring basis.

"**Open Source Software**" means any open source code, freeware, libraries or any source code subject to any license identified as an "open source license" by the Open Source Initiative or Free Software Foundation or any similar licensing or distribution model.

"**Order**" means any order, judgment, decree, injunction, stipulation, settlement, or consent order of or with any Governmental Authority.

"**OSHA**" has the meaning set forth in Section 3.18(i).

"**Outside Date**" has the meaning set forth Section 10.01(a)(ii).

"**Parent**" means Proficient Auto Logistics, Inc., a Delaware corporation.

"**Parent Common Stock**" means the common stock, par value $0.01 per share, of Parent.

"**Parties**" has the meaning set forth in the preamble.

"**Party**" has the meaning set forth in the preamble.

"**Payoff Indebtedness**" means all Indebtedness of the type set forth in clauses (a), (b), (c), (e) and (g) (solely with respect to Indebtedness of the type set forth in clauses (a), (b), (c) and (e)) of the definition thereof).

"**Payoff Letter**" means those payoff letters in form reasonably satisfactory to Buyers from each holder of Payoff Indebtedness outstanding as of the Closing and, if any such Payoff Indebtedness or guaranties thereof is secured by any assets or Equity Interests of the Company Entities, inclusive of undertaking by the holder(s) thereof to discharge any Liens securing the same or authorize such Company Entity or its Representatives to effect such discharge.

"**Permits**" has the meaning set forth in Section 3.13(b).

"**Permitted Liens**" means (a) mechanics, materialmen's and similar Liens with respect to any amounts not yet delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP, (b) Liens for Taxes not yet delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP, (c) Liens securing rental payments not yet delinquent or that did not arise due to such delinquency, in each case, under capital lease agreements, (d) Liens on real property (including easements, covenants, rights of way and similar restrictions of record) that (i) are matters of record, (ii) would be disclosed by a current, accurate survey or physical inspection of such real property, (iii) do not materially interfere with the present uses of such real property or (iv) are otherwise set forth in the title commitments made available to Buyers on or prior to the date hereof, which, in each case, do not adversely impact in any material respect the value or marketability or current use (or contemplated use), occupancy, or operation of such real property, (e) zoning, building codes and other land use laws regulating the use or occupancy of real property or the activities conducted thereon which are imposed by any Governmental Authority having jurisdiction over such real property which, in each case, do not adversely impact in any material respect the value or marketability or current use (or contemplated use), occupancy, or operation of such real property, (f) to the extent terminated in connection with the Closing, Liens securing payment, or any other obligations, of the Company Entities with respect to Indebtedness, (g) Liens constituting a lease, sublease or occupancy agreement that gives any third party any right to occupy any real property, (h) Liens arising under worker's compensation, unemployment insurance, social security, retirement or similar laws, and (i) Liens described in Section 1.01(d) of the Disclosure Schedule.

"**Person**" means an individual, firm, body corporate (wherever incorporated), partnership, limited liability company, limited company, association, joint venture, trust, works council or employee representative body (whether or not having separate legal personality) or other entity or organization, including a government, state or agency of a state or a Governmental Authority.

"**Personal Data**" means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or household, and when referring to a Data Protection Requirement, has the same meaning as the similar or equivalent term defined thereunder.

"**Pre-Closing Reorganization**" has the meaning set forth in Section 6.09(a).

"**Pre-Closing Tax Period**" means any Tax period ending on or before the Closing Date and the portion of any Straddle Period ending on and including the Closing Date.

"**Preliminary Closing Statement**" has the meaning set forth in Section 2.05.

"**Privacy Policies**" means all published, posted and internal policies, procedures, agreements and notices relating to the collection, use, storage, disclosure, destruction or cross-border transfer of Personal Data.

"**Projected EBITDA**" has the meaning on Schedule 1.01(a).

"**Proprietary Software**" means all computer software and databases (including associated documentation and Source Code therefor) owned or purported to be owned by any of the Company Entities.

"**Purchase Price**" has the meaning set forth in Section 2.02.

"**R&W Policy**" has the meaning set forth in Section 6.05.

"**Real Property Leases**" has the meaning set forth in Section 3.15(b).

"**Registered IP**" has the meaning set forth in Section 3.16(a).

"**Registration Rights Agreement**" means the registration rights agreement to be entered into by and between Parent and Hansen at the Closing, in the form attached hereto as Exhibit D.

"**Related Party**" means, with respect to any Person or such Person's Affiliates, any of such Person's or such Person's Affiliates' (i) former, current or future direct or indirect Affiliates, Representatives, controlling Persons, trustees, members, general or limited partners, other equityholders, successors or assignees (or any former, current or future direct or indirect Affiliates, Representatives, controlling persons, members, general or limited partners, other equityholders, successors or assignees of any of the foregoing), (ii) trusts, partnerships, corporations or other legal entities in which such Persons directly or indirectly hold an interest or (iii) ancestors, siblings, descendants or spouses.

"**Release**" means any release, spill, emission, leaking, pumping, pouring, emptying, leaching, escaping, dumping, disposing, injection, deposit or discharge of any Hazardous Substance in, onto or through the environment.

"**Remedial Action**" means any action under any Environmental Law to (i) investigate, clean-up, remediate, remove, respond to, treat or in any other way address a Release, or a threat of Release, into the environment, including the performance of required studies, investigations, restoration or monitoring or (ii) assess or restore the environment or natural resources.

"**Remedies Exception**" has the meaning set forth in Section 3.03(b).

"**Representatives**" means, with respect to any Person, collectively, the directors, officers, managers, employees, agents, consultants, advisors and other representatives of such Person.

"**Restricted Period**" has the meaning set forth in Section 6.08(a).

"**Restrictive Covenants**" has the meaning set forth in Section 6.08(f).

"**Royal Equity Interests**" has the meaning set forth in the recitals.

"**Royal Holdco**" has the meaning set forth in the preamble.

"**Royal Leasing**" has the meaning set forth in the preamble.

"**RWI Costs**" has the meaning set forth in the definition of "Transaction Expenses".

"**Sanction(s)**" means any sanction administered or enforced by the United States Government, including the Department of the Treasury's Office of Foreign Assets Control ("**OFAC**") and the Department of State, Canadian Government (including Global Affairs Canada and Public Safety Canada), the United Nations Security Council or other relevant sanctions authority.

"**Sanctioned Country**" has the meaning set forth in Section 3.25(a).

"**Sanctioned Persons**" has the meaning set forth in Section 3.25(a).

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Seller Fundamental Warranties**" means the representations and warranties contained in Sections 4.01 (*Existence and Power*), 4.02 (*Authorization*), 4.04(a) (*Non-Contravention*), 4.06 (*Ownership*) and 4.08 (*Finders' Fees*).

"**Seller Non-Recourse Parties**" has the meaning set forth in Section 12.01(a).

"**Seller Release Parties**" has the meaning set forth in Section 12.01(c).

"**Seller Representative**" means Steven Hansen on behalf of the Sellers.

"**Seller's Bank Account**" means an account of a Seller designated by such Seller, by notice to Buyers.

"**Sellers**" has the meaning set forth in the preamble.

"**Share Price**" means the volume-weighted average price of Parent Common Stock on the Nasdaq Stock Market during the twenty (20) trading days ending on the date that is three (3) days prior to the issuance date.

"**Smyrna Property**" has the meaning set forth in Section 6.09(a).

"**Solvent**" has the meaning set forth in Section 5.11.

"**Source Code**" means, collectively, any software source code, or any portion or aspect of the software source code, or any proprietary information or algorithm contained in or relating to any software source.

"**Specified Matter**" has the meaning set forth in Section 9.01(b).

"**Stock Consideration Amount**" means $5,000,000, consisting of (a) the Closing Stock Consideration Amount and (b) the Earnout Stock Consideration Amount.

"**Stock Consideration Shares**" means, with respect to any issuance pursuant to Section 2.04(b)(i)(C) or Section 2.07(c), a number of shares of Parent Common Stock (rounded down to the nearest whole share) equal to (a) the applicable portion of the Stock Consideration Amount divided by (b) Share Price. The term "Stock Consideration Shares" also includes any securities issued or issuable in respect of the Stock Consideration Shares (whether of Parent or any successor) by way of any stock split, stock dividend, distribution, recapitalization, reclassification, merger, consolidation, exchange or similar transaction.

"**Straddle Period**" means a Tax period that begins on or before and ends after the Closing Date.

"**Subsidiary**" means, with respect to a Person, any other Person of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such first Person.

"**Surviving Indemnity Obligations**" has the meaning set forth in Section 11.02.

"**Target Net Working Capital**" means $7,534,874.

"**Tax**" or "**Taxes**" means (i) all taxes and similar charges, fees, duties, levies, or other assessments (including income, gross receipts, net proceeds, ad valorem, withholding, turnover, real or personal property (tangible and intangible), occupation, customs, import and export, sales, use, franchise, excise, unclaimed property, escheat, goods and services (GST), harmonized sales (HST), value added, employer health, stamp, user, transfer, registration, recording, fuel, profit, excess profits, occupational, interest equalization, windfall profits, severance, payroll, unemployment, social security, Canada Pension Plan, and other taxes or fees) that are imposed by any Governmental Authority, in each case including any interest, penalties, or additions to tax attributable thereto (or attributable to the nonpayment thereof), (ii) any liability for or in respect of the payment of any amount of a type described in clause (i) of this definition as a result of being a member of an affiliated, combined, consolidated unitary or other group for Tax purposes, and (iii) any liability for or in respect of the payment of any amount described in clause (i) or (ii) of this definition as a transferee or successor, by contract or otherwise.

"**Tax Contest**" has the meaning set forth in Section 8.12.

"**Tax Return**" means any Tax return, statement, report, election, declaration, disclosure, schedule or form (including any estimated tax or information return or report) filed or required to be filed with any Taxing Authority.

"**Taxing Authority**" means any Governmental Authority responsible for the imposition or collection of any Tax.

"**Terminating Buyer Breach**" has the meaning set forth in Section 10.01(a)(v).

"**Terminating Seller Breach**" has the meaning set forth in Section 10.01(a)(iv).

"**Third Party Claim**" has the meaning set forth in Section 11.06(a).

"**Third Party Claim Notice**" has the meaning set forth in Section 11.06(a).

"**Trade Secrets**" means trade secrets, industrial designs, discoveries, improvements, ideas, designs, models, formulae, patterns, compilations, data collections, drawings, blueprints, mask works, methods, techniques, processes, know-how, proprietary information, Source Code, algorithms, compositions, procedures, data, technical data, specifications, customer lists, pricing and cost information, business and marketing plans and proposals, technical information and any items that comprise trade secrets under Applicable Law.

"**Transaction Agreements**" means this Agreement, the Confidentiality Agreements, the Lock-Up Agreement, the Registration Rights Agreement, the Escrow Agreement, and the Amended and Restated Leases.

"**Transaction Expenses**" means, solely to the extent incurred prior to the Closing and not paid prior to the Closing and without duplication, the sum of (a) all fees, expenses and costs payable by the Company Entities in connection with the transactions contemplated by this Agreement to financial advisors, accountants, legal advisors and other third party advisors and that are incurred and not paid prior to the Closing, (b) the Change in Control Payments, (c) any payments, fees or expenses owing in respect of any "tail" policies obtained by any Company and/or any Seller on or prior to the Closing Date, and (d) fifty percent (50%) of the costs and expenses related to any R&W Policy, including the total premium, underwriting costs, brokerage commission, retention, and other fees and expenses of such policy (the "**RWI Costs**"); provided that "Transaction Expenses" shall not include any amount included in Indebtedness or Net Working Capital.

"**Transfer Taxes**" has the meaning set forth in Section 8.01.

"**Transferred Personal Information**" has the meaning set forth in Section 12.14.

"**Treasury Regulations**" means the final, temporary or proposed U.S. federal income tax regulations promulgated under the Code, as such tax regulations may be amended from time to time.

"**Truck**" means automobiles, trucks, trailers, tractors and other vehicles and transportation equipment used, held for use or useful in the conduct of the businesses of the Company Entities or the operation thereof.

"**Truck Lease**" means a Contract for the lease of a Truck or for the purchase of a Truck under a conditional sales or title retention agreement.

"**US Buyer**" has the meaning set forth in the preamble.

"**WARN Act**" has the meaning set forth in Section 7.05.

"**Willful Breach**" has the meaning set forth in Section 10.02.

"**Working Hours**" means 9:00 a.m. to 5:30 p.m. Monday to Friday on a Business Day or, as applicable, a working day in the relevant jurisdiction.

Section 1.02. *Other Definitional and Interpretative Provisions*. The words "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(b) The headings and captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

(c) References to Articles, Sections, Schedules, Exhibits and Annexes are to Articles, Sections, Schedules, Exhibits and Annexes of this Agreement unless otherwise specified.

(d) All Schedules (including the Disclosure Schedule), Exhibits and Annexes annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein.

(e) Any capitalized terms used in any Schedule (including the Disclosure Schedule), Exhibit or Annex but not otherwise defined therein shall have the meaning as defined in this Agreement.

(f) Where there is any inconsistency between the definitions set out in Section 1.01 and the definitions set out in any other Section or any Schedule (including the Disclosure Schedule), Exhibit or Annex, then, for the purposes of construing such Section, Schedule, Exhibit or Annex, the definitions set out in such Section, Schedule, Exhibit or Annex shall prevail.

(g) The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other theory extends and such phrase shall not mean "if".

(h) The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

(i) Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular.

(j) References to one gender shall include all genders.

(k) Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import.

(l) "Writing", "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form.

(m) References to any Applicable Law shall be deemed to refer to such Applicable Law as amended from time to time and to any rules or regulations promulgated thereunder.

(n) References to any Contract are to that Contract as amended, modified or supplemented from time to time in accordance with the terms thereof.

(o) References to any Person include the successors and permitted assigns of such Person.

(p) References from or through any date mean, unless otherwise specified, from and including or through and including, respectively.

(q) References to "$" are to United States dollars.

(r) For the purposes of this Agreement, any document that is described as being "delivered," "furnished" or "made available" shall be treated as such if a copy of such document has been placed in the virtual data room prepared by Seller prior to the execution of this Agreement in a form accessible to Buyers and their representatives (and such materials have remained continuously accessible by Buyers and their representatives through the execution of this Agreement).

(s) When used herein, "ordinary course" and "ordinary course of business" means an action taken, or omitted to be taken, in the ordinary course of the Company Entities' business on a basis consistent with each such Company Entity's past practice (provided that any health or safety action taken, or omitted to be taken, and any health or safety adjustments and modifications thereto taken in response to or as a result of COVID-19 or any COVID Actions shall be deemed to be "ordinary course" and in the "ordinary course of business").

(t) The word "or" is disjunctive but not necessarily exclusive.

(u) If any action under this Agreement is required to be done or taken on a day that is not a Business Day, then such action shall be required to be done or taken not on such day but on the first succeeding Business Day thereafter.

ARTICLE 2
PURCHASE AND SALE

Section 2.01. *Purchase and Sale*. Upon the terms and subject to the conditions of this Agreement, at the Closing, US Buyer agrees to purchase from H&A, all of the HAT Equity Interests and HAL Equity Interests and from Royal Holdco, all of the Royal Equity Interests, and Canada Buyer agrees to purchase from the HAC Trusts, all of the HAC Shares, and the Sellers agree to sell to the Buyers, free and clear of all Liens (other than Liens arising under provincial, state and federal securities laws and Liens incurred by Buyers or any of their Affiliates or Permitted Liens), all of their respective H&A Equity.

Section 2.02. *Purchase Price*. The aggregate purchase price for the H&A Equity (the "**Purchase Price**") shall equal the sum of (i) the Estimated Closing Purchase Price and (ii) whether positive or negative, the Adjustment Amount as apportioned amongst such H&A Equity as set forth on the Allocation Schedule. For purposes of determining the portion of the Purchase Price payable in respect of the H&A Equity of each Company, the Purchase Price shall be allocated among the H&A Equity of each Company as set forth in the Allocation Schedule; provided, that each purchase price adjustment component attributable to a particular Company shall only adjust the portion of the Purchase Price allocated to the H&A Equity of such Company, and shall not increase or decrease the portion of the Purchase Price allocated to the H&A Equity of any other Company. The Purchase Price shall be paid in accordance with Section 2.04 and shall be subject to adjustment as provided in Section 2.06.

Section 2.03. *Closing*. The consummation of the transactions contemplated by this Agreement (collectively, the "**Closing**") will take place at the offices of Willkie Farr & Gallagher LLP, 300 North LaSalle Drive, Chicago, Illinois 60654 or remotely by electronic exchange of documents and signatures at 10:00 a.m. Pacific time on August 13, 2026 after all conditions set forth in Section 9.01 have been satisfied or waived (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions) or at such other place or time as Buyers and the Sellers may agree. The date on which the Closing actually occurs is referred to in this Agreement as the "**Closing Date**." All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken, executed and delivered simultaneously, and no action shall be deemed taken and no document shall be deemed executed or delivered until all such actions have been taken and all such documents have been executed and delivered. Notwithstanding the foregoing, the Closing and the funding of the Financing are intended to occur substantially concurrently and to constitute a single integrated transaction, and neither shall be deemed not to have occurred because the other has not yet occurred. Accordingly, any condition under the M&T Loan Documents requiring the prior completion of the transactions contemplated by this Agreement shall be treated as satisfied upon their substantially concurrent completion, and Buyers shall be responsible for obtaining any consent or confirmation from the parties thereto necessary to give effect to the foregoing. At or prior to the Closing, the Parties shall agree upon a funds flow memorandum providing that all documents to be delivered and all payments to be made at the Closing shall be released simultaneously, and none until all have been released; provided, that the Closing shall not be deemed to have occurred until the amounts payable by Buyers pursuant to Section 2.04(b) have been irrevocably received in immediately available funds in the accounts designated in the Allocation Schedule and such funds flow memorandum.

Section 2.04. *Closing Deliverables.*

(a) At the Closing, Sellers and the Companies, as applicable, shall deliver or cause to be delivered to Buyers the following:

(i) instrument(s) of transfer duly executed by such Seller in customary form reasonably satisfactory to Buyers for the transfer of such Seller's H&A Equity;

(ii) each Transaction Agreement to which Seller, Company Entity or Affiliate thereof is a party, executed by Seller, such Company Entity or Affiliate thereof;

(iii) the Payoff Letters;

(iv) a certificate of good standing or status of each Company, issued as of a date not more than ten (10) Business Days prior to the Closing Date by the applicable Secretary of State of each Company's state of formation (or in the case of H&A Canada, the Registrar appointed under the *Business Corporations Act* (British Columbia));

(v) a properly completed and executed IRS Form W-9 from each Seller dated as of the Closing Date;

(vi) written resignations in form and substance reasonably satisfactory to Buyers of all officers, managers and directors of the Companies;

(vii) the written consents set forth in Section 2.04(a)(vii) of the Disclosure Schedule, in each case in form and substance reasonably satisfactory to Buyers;

(viii) evidence of the termination of all Contracts between a Company Entity, on the one hand, and any of their respective Related Parties (other than a Company Entity), on the other hand, other than (A) those set forth in Section 2.04(a)(viii) of the Disclosure Schedule, which shall include those certain Real Property Leases and Related Parties which are being amended and restated pursuant to the Amended and Restated Leases, and (B) Company Benefit Plans and compensation-related Contracts with any employee of a Company Entity, and all obligations thereunder shall have been fully released and satisfied without any outstanding fees, costs, expenses or other amounts payable by, or obligations or liabilities of Buyers, any Company Entity or their respective Affiliates following the Closing;

(ix) a certificate duly executed by the Secretary or other officer of each Company certifying that attached thereto are true, complete and correct copies of (A) the Governing Documents of each Company, (B) the resolutions of such Company's managers or directors, as applicable, authorizing the execution, delivery and performance of this Agreement and the other Transaction Agreements and the transactions contemplated by this Agreement and the other Transaction Agreements, which resolutions have not been modified, rescinded or revoked, and (C) confirmation that the Company Entities own or lease, and as such, the Sellers are delivering a fleet of Trucks (excluding Trucks subject to lease-to-purchase agreements under which any Company Entity is the lessor) to Buyers equal to the product of 1.15 and the Companies' Net Driver Amount (the "**Minimum Fleet Amount**");

(x) such other documents, certificates, or instruments as Buyers may reasonably request in order to effect the transactions contemplated by this Agreement, to vest in the applicable Buyer good and valid title to all of the H&A Equity or to evidence the release of all Liens (other than Permitted Liens) on the Companies' properties and assets;

(xi) evidence reasonably satisfactory to Buyers of the distribution, transfer, assignment, conveyance and delivery to H&A or its designee of the Excluded Assets and Liabilities; and

(xii) pursuant to the Escrow Agreement, a joint written instruction directing the Escrow Agent to release the Break-Up Escrow Amount to Sellers or other account designated by Buyers, duly executed by the Seller Representative, which amount, for the avoidance of doubt, will not increase the Closing Cash Payment.

(b) At or before Closing, Buyers shall deliver or cause to be delivered to Sellers the following:

(i) an aggregate amount equal to the Estimated Closing Purchase Price *minus* the Adjustment Escrow Amount (which amount shall be deposited at Closing with the Escrow Agent in accordance with the Escrow Agreement) *minus* the Expense Fund Amount in U.S. dollars and in immediately available funds by wire transfer as follows:

(A) an amount equal to the Closing Cash Payment, which amount shall be deposited in accordance with the Allocation Schedule to each Seller's Bank Account; *plus*

(B) any cash in lieu of any fractional share of Parent Common Stock that Hansen has the right to receive pursuant to Section 2.04(b)(i)(C), which amount shall be deposited into such Seller's Bank Account, for payment to Hansen in accordance with this Agreement; and

(C) evidence in form and substance reasonably satisfactory to Hansen of the issuance in book entry form (and bearing customary legends noting that such securities constitute restricted securities under the Securities Act) in the name of Hansen, of a number of shares of Parent Common Stock equal to the portion of the number of shares of Parent Common Stock (rounded down to the nearest whole share) equal to the (x) Closing Stock Consideration Amount divided by (y) Share Price;

(ii) on behalf of the Company Entities, to the intended beneficiaries thereof (as identified in writing by the Seller Representative to Buyers at least three (3) Business Days prior to the Closing or as set forth in the Payoff Letters, as applicable) the Estimated Closing Indebtedness and Estimated Transaction Expenses;

(iii) an amount equal to the Expense Fund Amount in immediately available funds by wire transfer to the account designated in writing by the Seller Representative in accordance with Section 6.07(e);

(iv) each Transaction Agreement to which such Buyer is a party, executed by such Buyer;

(v) a secretary or officer certificate, dated as of the Closing Date and executed by the secretary or an assistant secretary (or similar officer) of each Buyer, certifying as to the resolutions approved by the board of directors (or similar governing body) of each Buyer authorizing the execution, delivery, and performance by such Buyer of this Agreement and its Transaction Agreements and the consummation by such Buyer of the transactions contemplated by this Agreement; and

(vi) pursuant to the Escrow Agreement, a joint written instruction directing the Escrow Agent to release the Break-Up Escrow Amount to Sellers or other account designated by Sellers, duly executed by Buyers, which amount, for the avoidance of doubt, will not increase the Closing Cash Payment.

Section 2.05. *Estimated Closing Calculations.* Not less than three (3) Business Days prior to the Closing Date, the Companies shall deliver to Buyers a written statement setting forth (in each case, together with reasonable supporting documentation): the Companies' good faith estimates of Closing Net Working Capital ("**Estimated Closing Net Working Capital**"), Closing Indebtedness ("**Estimated Closing Indebtedness**"), Closing Cash ("**Estimated Closing Cash**"), and Closing Transaction Expenses ("**Estimated Transaction Expenses**"), in each case (other than in respect of the Transaction Expenses) calculated as of 11:59 p.m. (Pacific Time) on the day immediately preceding the Closing Date, the Companies' calculation of the Estimated Net Working Capital Adjustment Amount, on the basis of the foregoing, a calculation of the Estimated Closing Purchase Price and schedule setting forth each Seller's allocable portion of the Estimated Closing Purchase Price (such schedule, as subsequently updated by the Seller Representative and Buyers to account for the allocation of the Adjustment Amount and the Earnout Amount, as applicable, the "**Allocation Schedule**") (together with the calculations referred to in clauses (a), (b) and (c) above, the "**Preliminary Closing Statement**"). The Companies shall provide any additional documentation and reasonable access to any personnel involved with the preparation of the foregoing reasonably requested by Buyers in their review of the foregoing and shall consider in good faith any comments provided by Buyers thereon (and, to the extent Buyers and the Companies agree, the foregoing shall be revised to reflect such comments). The Allocation Schedule shall separately set forth, for each Company, the portion of the Estimated Closing Purchase Price allocated to the H&A Equity of such Company and each Seller's allocable portion thereof. For the avoidance of doubt, the Estimated Closing Purchase Price shall be equal to the aggregate of the portions of the Estimated Closing Purchase Price allocated to the H&A Equity of each Company as set forth in the Allocation Schedule.

Section 2.06. *Adjustment Amount*.

(a) As soon as reasonably practicable following the Closing Date, and in any event within ninety (90) calendar days thereof, Buyers shall prepare and deliver to the Seller Representative (i) Buyers' good faith calculation of (A) Net Working Capital ("**Closing Net Working Capital**"), (B) the aggregate amount of all Indebtedness ("**Closing Indebtedness**"), (C) the aggregate amount of Cash of the Company Entities ("**Closing Cash**"), (D) Transaction Expenses ("**Closing Transaction Expenses**"), and (E) the Closing Fleet Adjustment Amount, in each case (other than in respect of the Transaction Expenses), calculated as of 11:59 p.m. (Pacific Time) on the day immediately preceding the Closing Date, (ii) Buyers' calculation of the Closing Net Working Capital Adjustment Amount and the Closing Fleet Adjustment Amount, and (iii) on the basis of the foregoing, a calculation of the Closing Purchase Price (together with the items referred to in clauses (i) and (ii) above, the "**Final Closing Statement**"). The Final Closing Statement shall set forth for each Company, (i) the portion of the Closing Purchase Price allocated to the H&A Equity of each Company and (ii) the difference between the portion of the Estimated Closing Purchase Price and the portion of the Closing Purchase Price allocated to the H&A Equity of such Company. For the avoidance of doubt, the Closing Purchase Price shall be equal to the aggregate portions of the Closing Purchase Price allocated to the H&A Equity of each Company as set forth in the Final Closing Statement. The Closing Net Working Capital, Closing Indebtedness and Closing Cash shall be prepared in accordance with the Accounting Principles and the definitions of the defined terms used in this Section 2.06; provided, however, that (x) the Final Closing Statement (and any amounts included therein) shall reflect no increase in any accrual, provision or reserve unless (i) such increase is consistent with the Accounting Principles and (ii) such increase is required by reason of material new facts or circumstances that have occurred after the Balance Sheet Date and prior to the Closing, applying the same policies, methods, estimate techniques as set forth in the Accounting Principles, (y) except as set forth in the following clause (z), the Final Closing Statement (and any amounts included therein), shall not give effect to the consummation of the transactions contemplated by this Agreement, including any payments of cash in respect of the Purchase Price, or any financing transactions in connection therewith or, after the Closing, any other action or omission by Buyers or any of the Company Entities (other than in respect of Closing Transaction Expenses or other payments resulting from the occurrence of the Closing) and (z) the Final Closing Statement shall not reflect any expense or liability for which Buyers are responsible under this Agreement. Notwithstanding anything to the contrary in this Agreement, the calculations to be made pursuant to Section 2.05, and the purchase price adjustment to be made pursuant to this Section 2.06, shall be intended to give effect to the arithmetic difference between the items in the Preliminary Closing Statement and the Final Closing Statement, all of which shall be determined in accordance with the Accounting Principles.

(b) Following the Closing, Buyers shall provide the Seller Representative and its Representatives reasonable access to the records, properties, personnel and (subject to the execution of customary work paper access letters if requested) auditors of the Company Entities related to preparation of the Final Closing Statement and shall cause the personnel of the Company Entities to reasonably cooperate with the Seller Representative in connection with its review of the Final Closing Statement.

(c) If the Seller Representative disagrees with any of Buyers' calculations contained in the Final Closing Statement, the Seller Representative shall notify Buyers of such disagreement in writing (the "**Notice of Disagreement**"), setting forth in reasonable detail the particulars of such disagreement, within forty-five (45) days after its receipt of the Final Closing Statement. In the event that the Seller Representative does not provide the Notice of Disagreement within such 45-day period (as extended in accordance with this Section 2.06(c)), Sellers shall be deemed to have agreed to the Final Closing Statement (including the determinations included therein) delivered by Buyers, which shall be final, binding and conclusive for all purposes hereunder. In the event the Notice of Disagreement is timely provided, Buyers and the Seller Representative shall use their respective reasonable best efforts for a period of thirty (30) days (or such longer period as they may mutually agree) to resolve any disagreements with respect to any calculations contained in the Final Closing Statement. If, at the end of such period, they are unable to resolve such disagreements, then any such remaining disagreements (such remaining disagreements, the "**Disputed Items**") shall be resolved by BDO USA, P.C. or, if such firm is unwilling or unable to serve, such other independent accounting firm of internationally recognized standing as may be mutually selected by Buyers and the Seller Representative (such firm, the "**Auditor**"). Each of Buyers and the Seller Representative shall promptly provide their assertions regarding the Disputed Items in writing to the Auditor and to each other. In connection with the Auditor's review and resolution of the Disputed Items and the corresponding Closing Purchase Price, the Parties shall cause the Auditor to (i) only consider and resolve the Disputed Items submitted to the Auditor and the corresponding change to the Closing Purchase Price; (ii) be bound by the Accounting Principles; (iii) not engage in any *ex parte* communications with any Party; (iv) base its determination solely on the written submissions of the Parties and not conduct independent investigations, oral examinations, depositions, discovery or receive other forms of evidence, testimony or hearings; (v) not assign a value to any Disputed Item greater than the greatest value for such item claimed by either Party or less than the smallest value for such item claimed by either Party; and (vi) render its determination within thirty (30) days of its engagement. Each of Buyers and Sellers shall promptly provide, or cause to be provided, to the Auditor all information as is reasonably requested by the Auditor to resolve the Disputed Items. The determination of the Auditor shall be final, conclusive and binding on the Parties, absent manifest error or fraud. The date on which Closing Net Working Capital, Closing Indebtedness, Closing Cash, Closing Transaction Expenses, Closing Net Working Capital Adjustment Amount and Closing Purchase Price are finally determined in accordance with this Section 2.06(c) is hereinafter referred to as the "**Determination Date**." All fees and expenses of the Auditor relating to the work, if any, to be performed by the Auditor hereunder shall be borne pro rata as between Buyers, on the one hand, and the Sellers (such fees and expenses borne by the Sellers shall be borne by each Seller in accordance with the Allocation Schedule), on the other hand, in proportion to the allocation of the dollar value of the Disputed Items as between Buyers and the Sellers (set forth in the written submissions to the Auditor) made by the Auditor such that the Party prevailing on the greater dollar value of such disputes pays the lesser proportion of the fees and expenses, and such allocation of fees and expenses shall be set forth in the Auditor's written determination. For example, if the Seller Representative challenges items underlying the calculations of Closing Net Working Capital, Closing Indebtedness, Closing Cash or Closing Transaction Expenses in the net amount of $1,000,000, and the Auditor determines that Sellers have a valid claim for $600,000 of the $1,000,000, Sellers shall bear 40% of the fees and expenses of the Auditor and Buyers shall bear 60% of the fees and expenses of the Auditor.

(d) The "**Adjustment Amount**," which may be positive or negative, shall mean the Closing Purchase Price (as finally determined in accordance with Section 2.06(b) or Section 2.06(c), as applicable) *minus* the Estimated Closing Purchase Price. The Adjustment Amount shall be paid in accordance with Section 2.06(e). For purposes of determining each Seller's allocable portion of the Adjustment Amount, the Adjustment Amount shall be allocated among the H&A Equity of each Company based on the difference between (i) the portion of the Closing Purchase Price allocated to the H&A Equity of such Company and (ii) the portion of the Estimated Closing Purchase Price allocated to the H&A Equity of such Company, in each case as finally determined in accordance with this Section 2.06. Each such Company-level adjustment shall adjust only the portion of the Purchase Price allocated to the H&A Equity of the applicable Company and shall not adjust the portion of the Purchase Price allocated to the H&A Equity of any other Company.

(e) Promptly following the Determination Date, and in any event within three (3) Business Days of the Determination Date, and without duplication of any payments made pursuant to Section 2.06(c):

(i) If the Adjustment Amount is a positive number or zero (such amount, the "**Increase Amount**"), then (x) Buyers and the Seller Representative shall jointly instruct the Escrow Agent to release the entire Adjustment Escrow Amount to the Sellers in accordance with the updated Allocation Schedule (which shall have been provided no later than one (1) Business Day following the Determination Date by the Seller Representative, and subject to agreement by Buyers) to each Seller's Bank Account, and (y) Buyers shall pay to the Sellers an amount equal to the Increase Amount, in immediately available funds by wire transfer in accordance with the updated Allocation Schedule to each Seller's Bank Account.

(ii) If the Adjustment Amount is a negative number (the absolute value of such amount, the "**Deficit Amount**"), then Buyers and the Seller Representative shall jointly instruct the Escrow Agent to release to Buyers from the Adjustment Escrow Amount an amount equal to the Deficit Amount, and to release the remainder, if any, to the Sellers in accordance with the updated Allocation Schedule to each Seller's Bank Account; provided, that if the Deficit Amount exceeds the Adjustment Escrow Amount, each Seller shall pay to Buyers, by wire transfer of immediately available funds to one (1) or more accounts designated in writing by Buyers, an amount equal to such Seller's portion of such excess in accordance with the proportions set forth in the updated Allocation Schedule.

(iii) Notwithstanding that only one net payment shall be made pursuant to this Section 2.06(e), the updated Allocation Schedule shall reflect the allocation of the Adjustment Amount among the H&A Equity of each Company in accordance with Section 2.06(d), and each Seller's share of any Increase Amount or Deficit Amount, as applicable, shall be determined by reference to the portion of the Adjustment Amount allocated to the H&A Equity sold by such Seller.

Section 2.07. *Earnout.*

(a) Within thirty (30) days after Buyers' receipt of the unaudited financial statements of the Companies for the fiscal year-ended December 31, 2026, Buyers shall prepare and deliver to the Seller Representative Buyers' good faith calculation of 2026 EBITDA (collectively, the "**Earnout Statement**").

(b) If the Seller Representative disagrees with any of Buyers' calculations contained in the Earnout Statement, the Seller Representative shall notify Buyers of such disagreement in writing (the "**Earnout Notice of Disagreement**"), setting forth in reasonable detail the particulars of such disagreement, within forty-five (45) days after its receipt of the Earnout Statement. In the event that the Seller Representative does not provide the Notice of Disagreement within such 45-day period, Sellers shall be deemed to have agreed to the Earnout Statement (including the determinations included therein) delivered by Buyers, which shall be final, binding and conclusive for all purposes hereunder. In the event the Earnout Notice of Disagreement is timely provided, Buyers and the Seller Representative shall use their respective reasonable best efforts for a period of thirty (30) days (or such longer period as they may mutually agree) to resolve any disagreements with respect to any calculations contained in the Earnout Statement. If, at the end of such period, they are unable to resolve such disagreements, then any such remaining disagreements (such remaining disagreements, the "**Earnout Disputed Items**") shall be resolved by the Auditor in accordance with the principles of Section 2.06(c), *mutatis mutandis*. The date on which the 2026 EBITDA is finally determined in accordance with this Section 2.07(b) is hereinafter referred to as the "**Earnout Determination Date**." All fees and expenses of the Auditor relating to the work, if any, to be performed by the Auditor hereunder shall be borne pro rata as between Buyers, on the one hand, and the Sellers (such fees and expenses borne by the Sellers shall be borne by each Seller in accordance with the Allocation Schedule), on the other hand, in proportion to the allocation of the dollar value of the Earnout Disputed Items as between Buyers and the Sellers (set forth in the written submissions to the Auditor) made by the Auditor such that the Party prevailing on the greater dollar value of such disputes pays the lesser proportion of the fees and expenses, and such allocation of fees and expenses shall be set forth in the Auditor's written determination.

(c) Promptly following the Earnout Determination Date, and in any event within three (3) Business Days of the Earnout Determination Date, if the Earnout Amount is greater than zero (0), Buyers shall pay and issue the Earnout Amount in accordance with each Seller's allocable portion of the Earnout Amount as set forth in the updated Allocation Schedule. With respect to the portion of the Earnout Amount allocable to Hansen pursuant to the updated Allocation Schedule, Buyers shall pay such portion in Stock Consideration Shares until the aggregate Earnout Stock Consideration Amount issued to Hansen pursuant to this Section 2.07 equals $2,000,000 and shall pay the balance in cash in immediately available funds by wire transfer to Hansen's Bank Account. With respect to the portion of the Earnout Amount allocable to any other Seller pursuant to the updated Allocation Schedule, Buyers shall pay such amount in cash in immediately available funds by wire transfer to such Seller's Bank Account. If the Earnout Amount is zero (0), Buyers shall have no obligation to pay any Earnout Amount or issue any Stock Consideration Shares. Any payment made pursuant to this Section 2.07 shall be treated by the Parties as an adjustment to the Purchase Price for U.S. federal (and applicable state and local) income Tax purposes except as otherwise required by Applicable Law.

(d) Each Seller acknowledges and agrees that Buyers shall have the sole authority and discretion to conduct the business and operations of the Company Entities at all times following the Closing in any way Buyers deem appropriate in its discretion and to make any and all decisions and take any and all actions related thereto; provided, however, that (i) in no event shall Buyers or their Affiliates take any action in bad faith in respect of the conduct of the business and operations of the Company Entities with the principal intent of depriving the Sellers of the opportunity to receive the Earnout Amount and (ii) during the period commencing at Closing and continuing through December 31, 2026, Buyers shall, and shall cause the Company Entities to, (A) not take any action or intentionally fail to take any action for the primary purposes of diverting revenue or business opportunities in regards to incumbent customer locations of any Company Entity as of the Closing Date away from the Company Entities (provided, that tactical revenue sharing opportunities will be pursued in good faith to enable operational efficiencies, with revenue and cost for any tactical shared opportunities allotted to the entity that completes the move on behalf of such customer, and in connection therewith, in connection with the calculation of 2026 EBITDA Buyers will net out the aggregate gross revenue attributable to loads moved by Buyers and any of their Affiliates (other than the Company Entities) on behalf of the Company Entities and the aggregate gross revenue attributable to loads moved by the Company Entities on behalf of Buyers and any of their Affiliates (other than the Company Entities) and will credit the party on whose behalf the greater gross revenue was generated by the other, a commission rate of six percent (6%) applied against the net differential in gross revenue), (B) use commercially reasonable efforts to preserve material customer, vendor and supplier relationships of the Company Entities; provided that, changes to vendor or supplier relationships that do not disrupt the ongoing operations of the Company Entities and do not materially reduce 2026 EBITDA shall be permissible, (C) not discontinue or make any material change to any business line of the Company Entities, (D) not allocate, charge or otherwise shift to the Company Entities any costs or expenses of Buyers or any of their Affiliates that were not historically borne by the Company Entities prior to the Closing, except for (x) charges incurred in the ordinary course of business consistent with past practice, (y) charges for goods or services actually provided to the Company Entities by Buyers or their Affiliates that are reasonably allocated based on the relative benefit to the Company Entities and do not exceed the amount that would be payable to an unaffiliated third party for comparable goods or services on an arm's-length basis, and (z) shop maintenance network sharing opportunities will be pursued in good faith to enable operational efficiencies, with costs allocated internally, (E) not accelerate or defer revenue or expenses of the Company Entities outside the ordinary course of business, (F) not, and cause their Affiliates not to, solicit, pursue, redirect or otherwise take for the account of Buyers or any of their Affiliates (other than the Company Entities) the opportunities included in the Companies' projections set forth in Section 2.07(d) of the Disclosure Schedule, in each case excluding customer awards that are made pursuant to a bona fide competitive bidding process, with respect to which no confidential bid, pricing or customer information of the Company Entities was disclosed to or used by Buyers or any of their Affiliates (other than the Company Entities), and that are not influenced by the Sellers, Buyers or any of their Affiliates (including the Company Entities) following the Closing, and (G) not, and cause their Affiliates (other than the Company Entities) not to, solicit, recruit, hire, engage or otherwise transfer to Buyers or any of their Affiliates (other than the Company Entities) any driver of any Company Entity (whether engaged as an employee or an independent contractor, including owner-operators), or otherwise induce or encourage any such driver to terminate or reduce his or her employment or engagement with any Company Entity; provided, that the foregoing shall not restrict general solicitations of employment (including through public job postings) not specifically directed at drivers of the Company Entities, so long as no driver of the Company Entities responding to any such general solicitation is hired, engaged or transferred by Buyers or any of their Affiliates (other than the Company Entities) prior to January 1, 2027. Notwithstanding anything to the contrary in this Section 2.07(d), to the extent that an opportunity set forth in Section 2.07(d) of the Disclosure Schedule is a bid on a current Buyer incumbent location, the limitation set forth in Section 2.07(d)(ii)(F) shall not apply, and any subsequent rounds of bidding on Buyer incumbent locations following the Closing shall only be submitted under the incumbent.

(e) During the period from the Closing through the Earnout Determination Date, Buyers shall, and shall cause the Company Entities to, maintain books and records in reasonably sufficient detail to permit the calculation of 2026 EBITDA on a standalone basis consistent with the Accounting Principles.

Section 2.08. *Withholding*. Buyers will be entitled to deduct and withhold from the consideration otherwise payable to any Person pursuant to this Agreement such amounts as may be required by Applicable Law to be deducted and withheld with respect to Taxes. To the extent Buyers determine that they need to deduct and withhold any Tax on any payment made pursuant to this Agreement (other than with respect to amounts treated as wages or compensation for U.S. federal income Tax purposes or as a result of the failure of the Sellers to provide IRS Form W-9s pursuant to Section 2.04(a)(v)), Buyers shall provide reasonable notice to Sellers of such deduction or withholding no less than five (5) Business Days prior to such deduction or withholding, and the Parties shall cooperate in good faith to reduce or eliminate any such withholding to the extent permitted under Applicable Law. To the extent that amounts are so withheld and paid over to the appropriate Governmental Authority, such withheld amounts will be treated for all purposes of this Agreement as having been paid to the Person in respect of whom such deduction and withholding was made by Buyers.

Section 2.09. *Break-Up Fee*.

(a) The Break-Up Escrow Amount shall be paid as follows, in each case in accordance with the Escrow Agreement:

(i) if the Closing occurs, the Break-Up Escrow Amount shall be paid to the Sellers or such other account designated by the Sellers in accordance with the Escrow Agreement and in partial fulfillment of Buyers obligation to deliver the Closing Cash Payment to the Sellers under this Agreement;

(ii) if (x) Buyers have not obtained the funding necessary to consummate the transactions contemplated by this Agreement, pay the Purchase Price and pay related fees and expenses on or before the Outside Date, such that Buyers can make such funds available at Closing, or (y) all conditions set forth in Section 9.01(a) and Section 9.01(b) have been satisfied or are capable of being satisfied at a Closing (other than those conditions that by their terms are to be satisfied at the Closing) and Buyers fail to consummate the Closing when required pursuant to Section 2.03, then Buyers shall pay the Break-Up Escrow Amount to the Sellers; and such obligation shall be an affirmative payment obligation of Buyers to the Sellers, and shall be satisfied from the Break-Up Escrow Amount held by the Escrow Agent by wire transfer of immediately available funds to the accounts designated in the Allocation Schedule within three (3) Business Days after such failure to consummate the Closing; or

(iii) if this Agreement is terminated for any reason other than those described in Section 2.09(a)(ii), then the Break-Up Escrow Amount shall be paid to Parent or such other account designated by Buyers in accordance with the Escrow Agreement.

(b) Notwithstanding anything to the contrary herein, any release of the Break-Up Escrow Amount shall require a joint written instruction directing the Escrow Agent to release the Break-Up Escrow Amount, duly executed by Buyers and the Seller Representative; and, in the event that the Break-Up Escrow Amount is payable to the Sellers pursuant to Section 2.09(a)(ii), Buyers shall execute and deliver such joint written instruction to the Escrow Agent within two (2) Business Days after receipt of a written notice from the Seller Representative stating that the Break-Up Escrow Amount is payable to the Sellers pursuant thereto (which notice may accompany or be included in any notice of termination); provided, however, that if Buyers fail deliver such joint written instruction, the Sellers shall be entitled to recover from Buyers (i) the Break-Up Escrow Amount and (ii) the Sellers' reasonable and documented out-of-pocket costs of collection, including reasonable attorneys' fees, together with all interest earned on the Break-Up Escrow Amount, if any. Buyers and the Seller Representative shall take all actions and execute and deliver all documents reasonably necessary to give effect to this Section 2.09, including in connection with the Escrow Agreement.

ARTICLE 3
Representations and Warranties Regarding The Company Entities

Except as set forth in the Disclosure Schedule, the Companies and the Sellers, severally and not jointly, hereby represent and warrant to Buyers that:

Section 3.01. *Existence and Power*.

(a) Each Company Entity is duly incorporated or formed, validly existing and in good standing as a corporation or limited liability company under the laws of its jurisdiction of incorporation or formation and has all corporate or limited liability company powers required to carry on its business as now conducted. Each Company Entity is duly qualified to do business as a foreign corporation, limited company or limited liability company, as applicable and is in good standing in each jurisdiction in which property is owned, leased or operated by it or the nature of the business conducted by it makes such qualification necessary, except for those jurisdictions where failure to be so qualified would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) True, correct and complete copies of the Governing Documents of each Company Entity have been made available to Buyers; and true, correct and complete copies of the Governing Documents of each of H&A Transport and H&A Logistics following the LLC Conversions will have been made available to Buyers prior to the Closing Date.

Section 3.02. *Subsidiaries*.All Subsidiaries of the Companies and their respective jurisdictions of organization or incorporation, as applicable, are identified in Section 3.02 of the Disclosure Schedule. All of the outstanding Equity Interests of each Subsidiary of the Companies have been duly authorized and validly issued, are fully paid, nonassessable and are owned by the Companies, directly or indirectly, free and clear of all Liens (other than Permitted Liens or Liens arising under state and federal securities laws). Except for the Equity Interests of its Subsidiaries, the Companies do not own, directly or indirectly, any Equity Interests in any Person.

Section 3.03. *Authorization*.

(a) The execution, delivery and performance by each Company of this Agreement and each other Transaction Agreement to which each Company is a party and the consummation of the transactions contemplated hereby and thereby are within each Company's corporate or limited liability company powers, as applicable, and have been duly authorized by all necessary corporate or limited liability company action, as applicable, on the part of the Companies.

(b) This Agreement has been (and each other Transaction Agreement to which each Company is a party will be) duly authorized, executed and delivered by each Company and no other corporate or limited liability company proceedings or approvals (including by any holders of Equity Interests of each Company) on the part of each Company are necessary to authorize the execution and delivery of this Agreement or the Transaction Agreements to which it is a party or to consummate and perform the transactions contemplated hereby or thereby. This Agreement constitutes a valid, binding and enforceable agreement of each Company and each other Transaction Agreement to which each Company is a party, when executed and delivered by each Company, will constitute a valid and binding agreement of each Company, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar Applicable Laws affecting creditors' rights generally and subject to general principles of equity (collectively, the "**Remedies Exception**").

Section 3.04. *Governmental Authorization.* The execution, delivery and performance by each Company of this Agreement and each of the other Transaction Agreements to which each Company is a party and the consummation of the transactions contemplated thereby requires no action, approval or consent by or in respect of, or filing with, any Governmental Authority other than (a) the filing of applications and notices with, and receipt of approvals, licenses, authorizations or consents from, the Persons set forth in Section 3.04 of the Disclosure Schedule; and (b) any actions or filings, the absence of which would not and would not reasonably be expected to, individually or in the aggregate, materially and adversely affect or delay each Company's performance under this Agreement or any of the other Transaction Agreements or the consummation of the transactions contemplated hereby or thereby or be material to the Company Entities, taken as a whole.

Section 3.05. *Non-Contravention*. The execution, delivery and performance by each Company of this Agreement and each of the other Transaction Agreements to which each Company is a party and the consummation of the transactions contemplated hereby do not and will not, except as set forth in Section 3.05 of the Disclosure Schedule, (a) violate the certificate of formation, certificate of incorporation or operating agreement of any Company as currently in effect, (b) assuming compliance with the matters referred to in Section 3.04, violate any Applicable Law, require any consent or other action by any Person under, constitute a default under, or give rise to any right of termination, modification, cancellation or acceleration of any right (other than any right under any Company Benefit Plan) or obligation of any Company or to a loss of any benefit to which any Company is entitled under any Contract or Permit; or (c) result in the creation or imposition of any Lien on any asset of any Company, except for any Permitted Liens and with such exceptions, in the case of each of clauses (b) and (c), as would not and would not reasonably be expected to, individually or in the aggregate, materially and adversely affect or delay any Company's performance under this Agreement or any of the other Transaction Agreements or the consummation of the transactions contemplated hereby or thereby or be material to the Company Entities, taken as a whole.

Section 3.06. *Capitalization.* Except for the H&A Equity set forth in Section 3.06 of the Disclosure Schedule, there are no issued or outstanding Equity Interests of the Companies. The Sellers hold the H&A Equity set forth against the applicable Seller's name in Section 3.06 of the Disclosure Schedule and no other Person is a record or beneficial owner of any H&A Equity. All of the H&A Equity are duly authorized in accordance with the Companies' Governing Documents and Applicable Law, fully paid, nonassessable and validly issued. None of the Equity Interests of the Company Entities were issued in violation of any preemptive rights, purchase options, call options, rights of first refusal or first offer or similar rights or Applicable Law. There are no outstanding contractual obligations of the Companies to issue, repurchase, redeem or otherwise acquire any Equity Interests. Except as set forth in Section 3.06 of the Disclosure Schedule, there are no agreements, contracts or other arrangements which require any Company to make any investment (in the form of a loan, capital contribution or otherwise) in any other Person. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any Equity Interests of, or any other interests in, the Companies.

Section 3.07. *Financial Statements.* True and correct copies of the following are set forth in Section 3.07 of the Disclosure Schedule: (a) the audited consolidated balance sheet as of December 31, 2025 and December 31, 2024 and the related audited consolidated statements of operations, cash flows and changes in members' equity for the fiscal year ended December 31, 2025 and December 31, 2024 of the Companies (other than H&A Canada and its Subsidiary), (b) the unaudited balance sheet as of December 31, 2025 and December 31, 2024 and the related unaudited statements of operations, cash flows and changes in members' equity for the fiscal year ended December 31, 2025 and December 31, 2024 of H&A Canada and its Subsidiary, and (c) the unaudited interim consolidated balance sheet as of May 31, 2026 (the "**Balance Sheet**") and the related consolidated statements of operations and cash flows for the five (5) fiscal months ended May 31, 2026 of the Companies (collectively, the "**Financial Statements**"). The Financial Statements fairly present, in all material respects, in conformity with GAAP (or, in the case of the financial statements of H&A Canada and its Subsidiary referred to in clause (b), Canadian accounting standards for private enterprises (ASPE)) applied on a consistent basis (except as may be indicated in the notes thereto), the financial position of the Company Entities as of the dates thereof and their results of operations and cash flows for the periods then ended (subject to the lack of footnotes and normal year-end adjustments in the case of any unaudited interim financial statements). The Financial Statements have been prepared from the books and records of the Company Entities. Except as set forth in Section 3.07 of the Disclosure Schedule, the Company Entities maintain a system of internal controls over financial reporting that is intended to provide reasonable assurance (i) that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP (or, in the case of H&A Canada and its Subsidiary, ASPE), (ii) regarding prevention or timely detection of the unauthorized acquisition, use, or disposition of the assets of the Company Entities and (iii) that all off-balance sheet arrangements are properly identified and quantified. Since January 1, 2023, there has not been, to the knowledge of the Company, (A) any significant deficiency or weakness in the system of internal accounting controls used by the Company Entities, (B) any fraud or other wrongdoing that involves any of the management of the Company Entities or other employees who have a role in the preparation of the Financial Statements, in each case in their capacity as management or an employee of the Company Entities or (C) any written claim or allegation regarding any of the foregoing. All of the accounts and notes receivable of the Company Entities, either reflected on the Financial Statements or arising since the Balance Sheet Date, have arisen from bona fide transactions in the ordinary course of business.

Section 3.08. *Accounts Receivable*. Except as set forth in Section 3.08 of the Disclosure Schedule, all notes and accounts receivable payable to or for the benefit of the Company Entities reflected on the Financial Statements and/or the Preliminary Closing Statement are (or will be) current and collectible in amounts not less than the aggregate amount thereof (net of reserves established in accordance with GAAP applied consistently with prior practice) carried (or to be carried) on the books of the Company Entities, none of such notes or accounts receivable is past due more than ninety (90) days and there is no contest, claim, defense or right of setoff with any account debtor of an accounts receivable relating to the amount or validity of such accounts receivable. Except as set forth in any Material Contract or other Contract made available to Buyers, no Company Entity has offered any material rebates to any of its customers which will apply at any time after the Closing.

Section 3.09. *Absence of Certain Changes.* From December 31, 2025 to the date of this Agreement, except as set forth in Section 3.09 of the Disclosure Schedule, (x) the businesses of the Company Entities have been conducted in the ordinary course and (y) none of the Company Entities has taken or failed to take any of the actions set forth below:

(a) amended (whether by merger, consolidation or otherwise) the certificate of incorporation, bylaws, operating agreement or other organizational documents of any Company Entity;

(b) (i) split, combined or reclassified any Equity Interests of any Company Entity, (ii) declared, set aside or paid any dividend or other distribution, other than (x) dividends or other distributions among Company Entities, or (y) as may facilitate the settlement or elimination of intercompany accounts between any Company Entities, on the one hand, and any Seller and any of its Affiliates, on the other, or (iii) redeemed, repurchased or otherwise acquired any Equity Interests of any Company Entity (other than redemptions, repurchases or other acquisitions of Equity Interests of any Company Entity from employees of the Company Entities in accordance with the terms of the Governing Documents of each Company Entity or such employee's employment agreement or grant agreement in connection with the termination of such employee's employment, in each case, as in effect on the date hereof);

(c) (i) issued, sold, granted, pledged, transferred, disposed of or encumbered any Equity Interests of the Company Entities or granted any rights to subscribe for any of the foregoing (other than issuances of Equity Interests by Subsidiaries of any Company Entity to such Company Entities), or (ii) amended the terms of any Equity Interests of any Company Entity;

(d) acquired (whether by merger, consolidation, acquisition of stock or assets or otherwise), directly or indirectly, any Equity Interests, any material asset or any business or line of business, other than pursuant to the Contracts set forth in Section 3.09(d) of the Disclosure Schedule;

(e) disposed of (whether by merger, consolidation, disposition of stock or assets or otherwise), directly or indirectly, any Equity Interests, any material asset or any business or line of business, other than pursuant to the Contracts set forth in Section 3.09(e) of the Disclosure Schedule;

(f) made any material loans, advances or capital contributions to, or material investments in, any other Person, other than loans, advances or capital contributions to, or investments in, any Company Entity;

(g) incurred any Payoff Indebtedness or guaranteed any obligations in respect thereof to any other Person, or forgave any such indebtedness or guarantees thereof owing to any of the Company Entities, other than (i) indebtedness incurred in the ordinary course of business not in excess of $100,000 or (ii) with respect to indebtedness for borrowed money or guarantees thereof solely between or among the Company Entities;

(h) other than as required by the express terms of any Company Benefit Plan or Applicable Law, (i) entered into any employment contract or collective bargaining agreement, written or oral, or modified the terms of any such contract or agreement, (ii) granted any increase in the base compensation of any Company Service Provider outside the ordinary course of business, (iii) adopted, amended, modified, or terminated any bonus, profit sharing, incentive, severance, or other plan, contract, or commitment for the benefit of any Company Service Provider (or taken any such action with respect to any other benefit plan), or (iv) made any other change in employment terms for any Company Service Provider outside the ordinary course of business;

(i) amended or voluntarily terminated any Contract listed in Section 3.11(a) of the Disclosure Schedule, or enter into any new Contract that would have been required to be listed in Section 3.11(a) of the Disclosure Schedule had it been in effect as of the date hereof, in each case other than in the ordinary course of business;

(j) made, amended, changed or revoked any material Tax election, changed any annual Tax accounting period, changed any method of Tax accounting, consented to any waiver or extension of any statute of limitations with respect to Taxes or Tax Returns, entered into any closing agreement with respect to any Tax, settled or compromised any Tax claim or any assessment or surrendered any right to claim a Tax refund, in each case other than the LLC Conversions and any filing, election or other action taken in connection therewith as contemplated by this Agreement;

(k) (i) transferred, permitted to lapse, dedicated to the public domain, pledged, disposed of, granted, abandoned, encumbered, assigned or granted any license or sublicense under or with respect to any Company Intellectual Property Rights, other than non-exclusive licenses to customers or resellers granted in the ordinary course of business on the Company Entities' standard forms made available to Buyers; or (ii) disclosed any Trade Secrets to any Person, without entering into an agreement in usual and customary form and substance with such Person protecting the confidentiality of such Trade Secrets;

(l) made any change to the Company Entities' methods of financial accounting, except as required by changes in GAAP or other Applicable Law;

(m) adopted a plan or agreement of complete or partial liquidation, dissolution or merger;

(n) mortgaged, encumbered or otherwise permitted, allowed or suffered any property or assets to become subjected to any Lien, other than Permitted Liens;

(o) settled, compromised, discharged, waived, released or assigned any material claim, right or material Action, except in the ordinary course of business (and without an admission of wrongdoing or the imposition of material non-monetary obligations or restrictions on the operations, business, organization, assets, rights, properties or relationships of the Company Entities) for more than $250,000;

(p) amended, waived rights under or voluntarily or prematurely terminated or failed to renew any Material Contract or material Permit, or entered into any Material Contract other than in the ordinary course of business;

(q) made any capital expenditures or commitments therefor in excess of $250,000 in the aggregate or fail to make any capital expenditures set forth in the Companies' budget made available to Buyers; or

(r) agreed or committed to do any of the foregoing.

Section 3.10. *No Undisclosed Material Liabilities*. There are no liabilities of the Company Entities that would be required by GAAP to be reflected or reserved against on a consolidated balance sheet of the Companies, other than (a) liabilities provided for in the Financial Statements or disclosed in the notes thereto; (b) liabilities incurred in the ordinary course of business since the Balance Sheet Date; (c) liabilities incurred in connection with the transactions contemplated by this Agreement or expressly disclosed in the Disclosure Schedule; and (d) other liabilities which are not, individually or in the aggregate, material in nature or amount (and which did not result from Breach of Contract or Applicable Law). Except as otherwise set forth in Section 3.10 of the Disclosure Schedule, no Company Entity is party to any material off balance sheet arrangement.

Section 3.11. *Material Contracts.*

(a) Section 3.11(a) of the Disclosure Schedule sets forth a complete and accurate list of Contracts to which any Company Entity is a party (excluding any Company Benefit Plans) that fall within the following categories (collectively, the "**Material Contracts**") and are existing as of the date hereof:

(i) any Real Property Lease;

(ii) Contracts with a Material Supplier;

(iii) Contracts with a Material Customer;

(iv) any Truck Lease, identifying each Truck Lease by (A) make, year, vehicle identification number and location of the Truck, (B) lessor, lessee, term of lease and monthly payables and (C) whether the lease has been classified as an operating lease or capital lease;

(v) any Equipment Lease, identifying each Equipment Lease by (A) manufacturer, description, model number, serial number and location of the leased Equipment, (B) lessor, lessee, term of lease and rent payable and (C) whether the lease has been classified as an operating lease or a capital lease;

(vi) any Contract with any Related Party of the Company Entities (other than for employment relationships and compensation, benefits, travel advances and employee loans, in each case in the ordinary course of business);

(vii) any Contract pursuant to which a Company Entity grants or receives rights in or to, any Intellectual Property Rights from or to a third party, including any Contract pursuant to which any Company Entity is granted or grants a covenant not to sue or assert with respect to any Intellectual Property Rights, but excluding (A) non-exclusive licenses granted to customers or resellers in the ordinary course of business on the Company Entity's standard form made available to Buyers, and (B) Off-the-Shelf Software Licenses;

(viii) any Contract for the sale of services or products giving rise to anticipated receipts by the Company Entities of more than $100,000 in any calendar year;

(ix) any material partnership, joint venture, profit-sharing or other similar Contract;

(x) any Contract relating to the acquisition or disposition of any material assets, a material portion of the Equity Interests of any business enterprise or a business (whether by merger, sale of stock, sale of assets or otherwise) pursuant to which a Company Entity has any outstanding payment obligations, indemnity obligations that may reasonably be expected to result in any liability to the Company Entities or any ongoing restrictive covenants binding the Company Entities;

(xi) any Contract (x) where a Company Entity is an obligor or guarantor relating to Indebtedness, other than any such arrangements exclusively between a Company Entity and one or more other Company Entities or (y) granting or evidencing a Lien on any material properties or material assets of any Company Entities (other than Permitted Liens), and identifies for each item of Indebtedness the (A) parties to the applicable loan agreements, (B) date of such loan agreements, and any amendments thereto, (C) any Liens against any Company Entity arising out of such Indebtedness, (D) purpose for which such Indebtedness was obtained, and (E) outstanding principal and accrued but unpaid interest as of the date of this Agreement;

(xii) any Contract containing covenants expressly limiting in any material respect the freedom of the Company Entities to compete with any Person in a product line or line of business or operate in any jurisdiction or solicit a business relationship with any Person (other than as an employee);

(xiii) Contracts granting any rights of first refusal, first offer or similar rights to any Person with respect to Equity Interests, services, assets or properties or containing any most favored nation terms or similar provisions in which pricing, discounts or benefits are based on those provided to another Person;

(xiv) any Contract with a Governmental Authority;

(xv) Contracts entered into in the three (3) years preceding the date of this Agreement involving any resolution or settlement of any actual or threatened Action, other than settlements of auto liability or workers compensation claims in the ordinary course of business involving payments of less than $250,000 for any individual claim;

(xvi) any material Contract between a Company Entity, on the one hand, and a Seller, any of its Affiliates, or any officer, director or employee of any Company Entity on the other hand (other than (x) employment and severance Contracts and (y) referral program participation and client agreements with employees, in each case, entered into in the ordinary course of business);

(xvii) any collective bargaining agreement, labor Contract or other written agreement or arrangement with any labor union, collective bargaining agent, industrial organization or any employee organization or Contract, agreement or arrangement with a professional employer organization or other Contract, agreement or arrangement providing for co-employment of employees of any Company Entity;

(xviii) any Contract, other than any Company Benefit Plan, with (A) any current or former officer or director of any Company Entity or (B) any other current or former employee of, independent contractor of, or consultant to any Company Entity providing for, in the case of this clause (B), aggregate future payments of more than $25,000;

(xix) any Contract that limits the freedom of any Company Entity to compete with any Person or in any geographical area or that otherwise restricts the development, manufacture, marketing, distribution, or sale of the Companies' products or services;

(xx) any Contract restricting the ability of any Company Entity to solicit or hire any other Person;

(xxi) any power of attorney not made in the ordinary course of business consistent with past practice;

(xxii) any Contract not made in the ordinary course of business; and

(xxiii) any other Contract that is material to the businesses of the Company Entities or the operation thereof.

(b) (i) Each Material Contract is a valid and binding agreement of the applicable Company Entity, and is in full force and effect and is enforceable against the applicable Company Entity and, to the knowledge of the Company, each other party thereto, (ii) no Company Entity nor, to the Company's knowledge, any other party thereto is in default or breach under the terms of any such Material Contract and (iii) no event has occurred that with the lapse of time, or the giving of notice, or both, would constitute such a default or breach by any Company Entity, except, in each case, for any such defaults, events or breaches which would not reasonably be expected to be material to the Company Entities, taken as a whole. True, complete and correct copies of each Material Contract required to be listed in Section 3.11(a) of the Disclosure Schedule have been made available to Buyers. Since the Balance Sheet Date, no Company Entity has, orally or in writing, and no other party to any Material Contract has, in writing or, to the knowledge of the Company, orally, provided any indication that it intends to terminate, not renew or otherwise materially alter or seek to materially alter the terms of any Material Contract.

(c) No Company Entity has received written (or to the knowledge of the Company, oral) notice to the effect that a Material Supplier or Material Customer will, or intends to, or intends to propose to, terminate its relationship with the Company Entities, materially reduce its business with the Company Entities on a consolidated basis or materially modify the terms of its business with the Company Entities.

Section 3.12. *Litigation and Orders.*

(a) Except as set forth in Section 3.12(a) of the Disclosure Schedule, no Company Entity is, and in the three (3) years preceding the date of this Agreement, no Company Entity has been, a claimant or defendant in or otherwise a party to any material Action concerning the businesses, properties, assets, or Equity Interests of the Company Entities or any current or former director, manager or officer of a Company Entity (in such capacity) which are in progress or, to the Company's knowledge, threatened in writing or pending, and no Company Entity is considering any such Actions. None of the Actions set forth or required to be set forth in Section 3.12(a) of the Disclosure Schedule would, if determined adversely to any Company Entities, materially and adversely affect any Company Entity or the businesses of the Company Entities or the operation thereof. Except as set forth in Section 3.12(a) of the Disclosure Schedule, the operation of the businesses of the Company Entities or the operation thereof is not, and in the six (6) years preceding the date of this Agreement has not been, subject to any Order. The Company Entities are and have been in material compliance with all Orders set forth in Section 3.12(a) of the Disclosure Schedule. No Company Entity is a party to or bound by any Contract to settle or compromise any Action against it which has involved any obligation other than the payment of money or under which any Company Entity has any continuing liability.

(b) There are no Actions pending or threatened by or against any Company Entity with respect to this Agreement or the transactions contemplated by this Agreement or that, if determined adversely to any Company Entity, would prevent or delay the consummation by the Companies of the transactions contemplated by this Agreement.

Section 3.13. *Compliance with Laws; Permits.*

(a) The Company Entities are as of the date hereof, and in the three (3) years preceding the date of this Agreement, have been, in compliance with all Applicable Laws, except where the failure to be in compliance with such Applicable Laws would not be, and would not reasonably be expected to be, individually or in the aggregate, material to the Company Entities, taken as a whole. In the three (3) years preceding the date of this Agreement, no Seller nor any Company Entity have received any written, or to the Company's knowledge, oral notice from a Governmental Authority alleging that such Company Entity is not in compliance with any Applicable Law.

(b) In the three (3) years preceding the date of this Agreement, the Company Entities have held all permits, licenses, variances, exemptions, authorizations, orders and approvals of all Governmental Authorities (collectively, "**Permits**") necessary for operation of the businesses of the Company Entities, except where the absence of any such Permit would not be, and would not reasonably be expected to be, individually or in the aggregate, material to the Company Entities, taken as a whole. Each such Permit is set forth in Section 3.13(b) of the Disclosure Schedule. As of the date of this Agreement, there are no actions or proceedings pending or, to the Company's knowledge, threatened which would reasonably be expected to result in the revocation or termination of any such Permit, and no Company Entity has received any written (or, to the knowledge of the Company, other) notice alleging any of the foregoing, except for any such revocation or termination that would not be, and would not reasonably be expected to be, material to the Company Entities, taken as a whole. Each such Permit is in full force and effect and no event has occurred or circumstance exists that would reasonably be expected (with or without due notice or lapse of time or both) to constitute or result in a material violation of, or a failure to comply in any material respect with, any requirements of any Permit, or result in the (or give rise to any right of) revocation, withdrawal, suspension, modification, cancellation, impairment, forfeiture or termination thereof.

Section 3.14. *Properties.*

(a) The Company Entities have good and valid title to, and are the lawful owners of, or in the case of leased or licensed property and assets have valid leasehold interests in, all property, rights and assets (whether real, personal, tangible or intangible) (x) reflected on the Balance Sheet or (y) acquired after the Balance Sheet Date (that would have been required to be reflected on the Balance Sheet had they been acquired prior to the Balance Sheet Date). None of such property, rights or assets is subject to any Liens, mortgages or charges, except Permitted Liens. Except as set forth in Section 3.14(a) of the Disclosure Schedule, no Seller, nor any member of such Seller's family, or any manager, director, officer, employee or other Affiliate of any Company (other than another Company Entity) owns or holds any property or tangible or intangible right that is used, or held for use in the businesses of the Company Entities or the operation thereof as operated by any Company Entity as of the date hereof, other than personal property owned by employees and used in their personal capacity in the ordinary course of business (such as personal mobile devices and personal vehicles). Such properties, rights and assets owned, leased, or licensed by any Company Entity, including all buildings, plants, structures, improvements, fixtures, machinery, equipment, vehicles, and other tangible assets are free from material defects, are in good operating condition and repair (subject to reasonable wear and tear), and are suitable for the uses for which they are presently used are reasonably sufficient to conduct the business of the Company Entities as currently conducted.

(b) Except as set forth in Section 3.14(b) of the Disclosure Schedule, and after giving effect to the termination of intercompany Contracts, services, support, and other arrangements, the properties and assets owned, leased, or licensed by the Companies, constitute all of the properties and assets (tangible and intangible) used in or necessary to conduct the businesses of the Company Entities or the operation thereof after the Closing as currently conducted.

(c) Section 3.14(c) of the Disclosure Schedule contains complete and accurate lists of the following assets owned by the Company Entities as of the date of this Agreement: (i) all Equipment (excluding Trucks) having an original purchase price of more than $5,000 identifying each piece of Equipment by description and location; (ii) all Trucks, identifying each Truck by make, year, vehicle identification number and location.

(d) Except (x) as set forth in Section 3.14(d) of the Disclosure Schedule, (y) as to damage that is fully accrued on the Balance Sheet or the Preliminary Closing Statement or for which a valid claim for insurance proceeds is pending, and (z) for normal wear and tear, scheduled maintenance, and immaterial unscheduled maintenance, for its age, each piece of Equipment and Truck owned or leased by any Company Entity (i) has been maintained in accordance with normal industry practice, (ii) is in good operating condition and repair, except for normal wear and tear, (iii) is free from patent defects other than minor defects that do not interfere with its continued use, and (iv) is suitable for the purposes for which it is currently used.

Section 3.15. *Real Property.*

(a) The Company Entities do not own any real property and other than the Smyrna Property have never owned any real property; provided, that with respect to MCL, the foregoing representation is made (i) without qualification only with respect to the period from and after July 16, 2013 and (ii) with respect to any period prior to July 16, 2013, to the knowledge of the Company.

(b) Section 3.15(b) of the Disclosure Schedule sets forth (i) a true, correct and complete list of the addresses of all real property leased, subleased, licensed, sublicensed by, or for which a right to use or occupy has been granted to, any Company Entity (the "**Leased Real Property**") and (ii) each lease, sublease, license, sublicense or other contract under which the Leased Real Property is occupied or used by the Company Entities (collectively, the "**Real Property Leases**"). The Company Entities have made available to Buyers a true, complete and correct copy of all Real Property Leases (and all amendments, modifications, supplements, exhibits, schedules, extensions, renewals, guarantees and other agreements with respect thereto). There is no pending, or to the Company's knowledge, threatened, eminent domain, condemnation, expropriation or similar proceeding materially affecting any Leased Real Property. With respect to the Leased Real Property, (i) the Real Property Lease for such property is valid, legally binding, enforceable and in full force and effect, subject to the Remedies Exception, (ii) the Company Entities' leasehold interests in the Leased Real Property are free and clear of all mortgages, Liens and security interests granted by any Company Entity, except for Permitted Liens, and (iii) no Company Entity has received or delivered written notice of any default or breach under any Real Property Lease, none of the Company Entities nor, to the Company's knowledge, the lessor, is in breach of or default under such Real Property Lease, and no event has occurred which, with notice, lapse of time or both, would constitute a breach or default by any of the Company Entities or, to the Company's knowledge, the lessor, or permit termination, modification or acceleration by any third party thereunder. All sums due under the Real Property Leases have been paid and the last installment of rent was paid to and was accepted by the landlord or the licensor or their agents without qualification.

(c) The Company Entities have not transferred or assigned any interest in any of the Leased Real Property, nor have any of the Company Entities subleased or otherwise granted rights of use or occupancy of any of the premises described therein to any Person, other than as described in Section 3.15(b) of the Disclosure Schedule. No Real Property Lease is subject to any material defenses, setoffs, or counterclaims. All buildings, structures, fixtures, building systems and equipment, and all components which are part of the Leased Real Property, are in compliance with all Applicable Laws and are in good operating condition and in a state of good and working maintenance and repair, and are adequate and suitable for the operation of the business of the Company Entities as currently conducted. No capital improvements or capital expenditures are currently contemplated by the Company Entities or are required pursuant to any Real Property Lease for any portion of the Leased Real Property. No portion of any facility, building, improvement or other structure located on any of the Leased Real Property has suffered any material damage by fire or other casualty within the past three (3) years which has not been substantially repaired or restored.

(d) The Smyrna Property and the Leased Real Property constitutes all real property held or used by the Company Entities to conduct, operate or manage the business of the Company Entities. The Leased Real Property, in its current condition, is suitable for the current operation and business of the Company Entities.

Section 3.16. *Intellectual Property*.

(a) Section 3.16(a) of the Disclosure Schedule contains a true, correct and complete list of (i) all issuances, registrations and applications of patents, industrial designs, trademarks, service marks, copyrights and domain names included in the Company Intellectual Property Rights (the "**Registered IP**") and (ii) all material Proprietary Software. All necessary registration, maintenance, renewal, application, filing, examination, maintenance and annuity fees and taxes have been paid, all legal requirements applicable to post-filing and post-registration maintenance (including the timely post-registration filing of affidavits of use and incontestability and renewal applications with respect to trademarks), and all necessary documents have been filed, in connection with the Registered IP.

(b) The Company Entities exclusively own all rights, title and interest in and to the Company Intellectual Property Rights, and such rights are valid, subsisting and enforceable. Except as set forth in Section 3.16(b) of the Disclosure Schedule, none of the Company Intellectual Property Rights is subject to any injunction or other specific judicial, administrative, or other administrative order that restricts or impairs the Company Entities' use or distribution thereof.

(c) The Company Entities own all right, title and interest in and to, or have valid, subsisting and enforceable licenses to use, all Intellectual Property Rights used or held for use in or necessary to the conduct of their businesses as currently conducted (the "**Business Intellectual Property Rights**"). The Company Entities are in material compliance with all contractual obligations relating to the use of the Business Intellectual Property Rights used pursuant to a license. The consummation of the transactions contemplated under this Agreement and the Transaction Agreements will not materially alter or impair any rights of the Company Entities to any Business Intellectual Property Rights.

(d) (i) Neither the conduct of the business of the Company Entities as previously conducted or currently conducted, the Company Entities' products and services, or the use of the Company Intellectual Property Rights infringes, dilutes, misappropriates or violates, or has infringed, diluted, misappropriated or violated, any Intellectual Property Rights or other proprietary right of any third party, (ii) there is no Action pending or, to the Company's knowledge, threatened, against the Company Entities, and no Company Entity has received any written notice (A) alleging any such infringement, misappropriation or violation of any third party's Intellectual Property Rights or other proprietary rights (including any letters offering a license or cease and desist letters) or (B) challenging any Company Entity's ownership or use, or the validity, scope, registrability or enforceability, of any Company Intellectual Property Rights or any Company products or services (including inventorship challenges or challenges to validity or enforceability, re-examination proceedings, final office actions, inter partes reviews, oppositions or nullity proceedings or interferences) and (iii) to the Company's knowledge, there have been and are no infringements, misappropriations or violations of, any Company Intellectual Property Rights by any third party.

(e) No Seller, founder or any present or former officer, director, founder, employee, agent, contractor or consultant of any Company Entity (each, a "**Contributor**") holds any right, title or interest, directly or indirectly, in whole or in part, in or to any Company Intellectual Property Rights. Each Contributor has executed a proprietary information and inventions agreement or similar agreement presently assigning to the Company Entities all right, title and interest in and to any Intellectual Property Rights developed for or on behalf of a Company Entity (and deeming any copyrightable works to be works made for hire for a Company Entity). To the Company's knowledge, no Contributor is or was, as the case may be, in violation thereof. No funding, facilities, equipment, resources or personnel of any Governmental Authority, university, college, or other educational institution or research center were used to develop or create, in whole or in part, any Company Intellectual Property Rights.

(f) The Company Entities have taken commercially reasonable steps to safeguard and maintain the secrecy and confidentiality of, and its proprietary rights in and to, all Trade Secrets and non-public Company Intellectual Property Rights. None of such Trade Secrets or non-public Company Intellectual Property Rights have been used, disclosed, or appropriated without authorization, and no Contributor has misappropriated any Trade Secrets or other confidential information of any other Person in the course of the performance of responsibilities to the Company Entities.

(g) Except as set forth in Section 3.16(g) of the Disclosure Schedule, none of the Company Entities, or any other Person acting on behalf of the Company Entities, has disclosed or delivered to any Person, or permitted the disclosure or delivery to any escrow agent or other Person, of any Source Code included in the Company Intellectual Property Rights ("**Company Source Code**"). No event has occurred, and no circumstance or condition exists (including the execution of this Agreement and the Transaction Agreements, and the consummation of the transactions contemplated hereby and thereby), that (with or without notice or lapse of time) will, or would reasonably be expected to, result in the disclosure or delivery by the Company Entities or any other Person acting on behalf of any Company Entity, of any Company Source Code. No third party owns any right, title or interest in or to any Company Source Code. No event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will, or would reasonably be expected to, result in the disclosure of any Company Source Code.

(h) The computer software, computer hardware, firmware, networks, interfaces and information technology equipment, networks and Data Systems owned, licensed, leased or used by the Company Entities (collectively, "**Computer Systems**") are sufficient in all material respects for the Company Entities' current needs in the operation of their respective businesses, and, except as set forth in Section 3.16(h) of the Disclosure Schedule, in the three (3) years preceding the date of this Agreement, there have been no failures, crashes, security breaches, or other adverse events affecting the Computer Systems which has caused material disruption to the business of the Company Entities. The Company Entities provide for the back-up and recovery of material data and have implemented and maintain commercially reasonable disaster recovery plans, procedures and facilities. The Company Entities have taken all commercially reasonable steps, as necessary and appropriate (including implementing and monitoring compliance with adequate measures with respect to technical and physical security and administrative measures), to protect the integrity and security of the Computer Systems and the information stored therein, processed thereon or transmitted therefrom from misuse or unauthorized use, access, disclosure or modification by third parties, and there has been no such misuse or unauthorized use, access, disclosure or modification.

(i) No Proprietary Software contains any computer code or any other mechanisms which are intended to (i) disrupt, disable, erase, or harm in any way such software's operation, or cause such software to damage or corrupt any data, hardware, storage media, programs, equipment, or communications of a computer system, or (ii) permit any Person to access such software or such computer system without authorization. The Proprietary Software performs in accordance with its documentation and complies in all material respects with any applicable warranty or contractual commitment relating to the use, functionality, or performance of such Proprietary Software, and there are no pending or, to the Company's knowledge, threatened claims alleging any such failure.

(j) No Proprietary Software, is derived from, is distributed, conveyed, integrated or bundled with, or links to or otherwise uses, any Open Source Software in any manner that (i) requires or conditions (or purports to require or condition) the use, conveyance or distribution of any Proprietary Software on the disclosure, licensing or distribution of any Company Source Code or the granting of any right to decompile, reverse engineer or create derivative works of any Company Intellectual Property Rights (including any Proprietary Software), (ii) otherwise imposes any material limitation, restriction or condition on the right or ability of the Company Entities to use, convey, distribute, commercialize or exploit any Company Intellectual Property Rights (including any Proprietary Software), or (iii) creates obligations for a Company Entity with respect to any Company Intellectual Property Rights (including any Proprietary Software) or grants to any other Person any rights or immunities under any Company Intellectual Property Rights (including any Proprietary Software).

(k) No Company Entity is now or has ever been a member of, or a contributor to, any industry standards body or any similar organization that could require or obligate such Company Entity to grant or offer to any Person or other third party any license or right to any Company Intellectual Property Rights.

(l) The Company Entities (i) have used, developed and deployed all Generative AI Tools in material compliance with the applicable license terms, consents, agreements and laws, (ii) have not included and do not include any personal information, trade secrets or material confidential or proprietary information of the Company Entities, or of any Person under an obligation of confidentiality by the Company Entities, in any prompts or inputs into any Generative AI Tools, except in cases where such Generative AI Tools have agreed in writing to keep such information, prompts, inputs and services confidential and do not to use such information, prompts, inputs or services to train the machine learning or algorithm of such tools or improve the services related to such tools, (iii) have not used Generative AI Tools to develop any material Company Intellectual Property Rights and (iv) have implemented and maintain, and are in material compliance with, appropriate procedures to identify and mitigate bias (or other harm to consumers) in their use of Generative AI Tools and any output therefrom.

Section 3.17. *Privacy and Data Security.*

(a) The Company Entities comply with, and in the three (3) years preceding the date of this Agreement, have complied with, all Data Protection Requirements.

(b) The Company Entities established and maintain, and have maintained, physical, technical, and administrative security measures and policies, materially compliant with applicable Data Protection Requirements, that (i) identify internal and organizational risks to, and protect, the confidentiality, integrity, security, and availability of Personal Data, Trade Secrets and confidential or business data and Data Systems taking into account the sensitivity of the data or systems; and (ii) maintain notification procedures in compliance with applicable Data Protection Requirements in the case of any breach of security compromising Personal Data or business data and Data Systems.

(c) Except as set forth in Section 3.17(c) of the Disclosure Schedule, the Company Entities have not experienced any failures, crashes, security breaches or incidents, unauthorized access, use, modification, loss of access, or disclosure, or other adverse events or incidents related to Personal Data, Trade Secrets or confidential or business data and Data Systems and none of the Company Entities' computer systems or data processing systems contain any malware intended to disrupt, disable or enable unauthorized access to such systems. No circumstance has arisen that would require notification of individuals, other affected parties, law enforcement, or any Governmental Authority.

(d) The Company Entities have not received any subpoenas, demands, or other notices from any Governmental Authority investigating, inquiring into, or otherwise relating to any actual or potential violation of any Data Protection Law and, to the Company's knowledge, no Company Entity is under investigation by any Governmental Authority for any actual or potential violation of any Data Protection Law. No notice, complaint, claim, inquiry, audit, enforcement action, proceeding, or litigation of any kind has been served on, or initiated against any Company Entity or any of their respective officers, directors, or employees (in their capacity as such) by any private party or Governmental Authority, foreign or domestic, under any Data Protection Requirement.

Section 3.18. *Labor Relations.*

(a) The Company Entities have complied, and are in material compliance with all employment agreements and contracts relating to employment or termination of employment of Company Service Providers, employment practices and terms and conditions of employment, to which it or they are a party, all Applicable Laws relating to immigration, labor and employment, including all such laws relating to employment and employment practices, labor relations, wages, hours, vacation, overtime, collective bargaining, employment discrimination, harassment (including psychological and sexual harassment), human rights, accessibility, French language, occupational safety and health, continuation coverage under group health plans, equal employment opportunities and pay equity, fair employment practices, the classification and compensation of employees and independent contractors, workers' compensation and the collection and payment of withholding or social security Taxes. Each Company Entity has met in all material respects all requirements required by Applicable Law relating to the employment of foreign citizens, including all requirements of Form I-9 Employment Verification or work permits (or, in the case of Company Entities operating in Canada, the applicable requirements under Canadian immigration Applicable Law), and none of the Company Entities currently employs, or has ever employed, any Person who was not permitted to work in the jurisdiction in which such Person was employed. The Company Entities have complied in all material respects with all Applicable Laws that could require overtime to be paid to any Company Service Provider, and no Person has ever brought or, to the knowledge of the Company, threatened to bring a claim for unpaid compensation or employee benefits, including overtime amounts. Each Company Entity is properly registered with the applicable workplace safety and insurance bond or workers' compensation board, as applicable.

(b) Except as set forth in Section 3.18(b) of the Disclosure Schedule, as of the date of this Agreement, (i) no Company Entity is a party to or subject to, or is currently negotiating in connection with entering into, any collective bargaining agreement or other agreement with a labor union, works council or similar employee or labor organization applicable to any Company Service Provider, and, to the Company's knowledge, there are no activities or proceedings of any labor union, works council or similar employee or labor organization to organize any such Company Service Providers; (ii) no trade union has applied to have any Company Entity declared a common related employer pursuant to labor legislation in any jurisdiction in which the Company Entities carry on business; (iii) there is no labor strike, dispute, slowdown, stoppage, picketing, interruption of work or lockout pending or, to the Company's knowledge, threatened against any Company Entity and none of the Company Entities has experienced any strike, material slowdown or material work stoppage; (iv) no Company Entity has committed a material unfair labor practice, and there are no unfair labor practice complaints, grievances or labor arbitration proceedings pending or, to the Company's knowledge, threatened against any Company Entity before any Governmental Authority; (v) there are no charges pending under applicable worker health and safety legislation and regulations in respect of the Company Entities, nor are there any outstanding assessments, penalties, fines, liens, charges, surcharges, or other amounts due or owing pursuant to any workplace safety and insurance legislation or plan; and (vi) no Company Entity has engaged any personnel placement agency, and there are no outstanding, pending or to the knowledge of the Company, threatened claims, complaints, investigations or orders relating to the employment of any personnel agency employees. No Company Entity is subject to any Action alleging wrongful dismissal, constructive dismissal, prohibited practice, workers' compensation, discrimination, harassment, retaliation, termination of employment or any other employment-related matter involving a Company Service Provider, or relating to the failure to hire a candidate for employment; and, to the Company's knowledge, no Company Entity has received a notice from any Governmental Authority disputing employee, independent contractor, leased employee, or other non-employee categories of classifications.

(c) The Companies have provided to Buyers an accurate and complete list of the name (where permitted by Applicable Law) or employee identification number of each Company Service Provider who is an employee as of the date hereof, including such employee's title or position, hire date, employing entity, work location (by province/state), full-time or part-time status, whether the employee is a foreign worker working under a work permit, status as active or inactive (and if inactive, the reason and type of leave, their expected date of return to work, if known, and whether they are in receipt of disability benefits or workers' compensation benefit), overtime eligibility, vacation entitlement, accrued vacation, annual salary or base wage rate, most recent annual bonus, commission or other incentive received and current annual bonus opportunity, benefits and other compensation.

(d) The Companies have provided to Buyers an accurate and complete list of Company Service Providers who are non-employee service providers engaged by any Company Entity, including the name, location, role or discipline, duration of engagement and engagement start date, consulting fees, any other forms of compensation or benefits, and whether they are subject to a written Contract. Copies of all such written Contracts have been delivered to Buyers. Any Company Service Provider who is not treated as an employee for federal income tax purposes by the Company Entities is not an employee under Applicable Laws or for any purpose, including for Tax withholding purposes or Company Benefit Plan purposes, and none of the Company Entities has any liability by reason of any Company Service Provider, in any capacity, being improperly excluded from participating in any Company Benefit Plan. Each employee of the Company Entities has been properly classified by the Company Entities as "exempt" or "non-exempt" under Applicable Law.

(e) To the knowledge of the Company, no current Company Service Provider is bound by any Contract (including licenses, covenants or commitments of any nature) or subject to any judgment, decree or order of any Governmental Authority that would materially interfere with the use of such Company Service Provider's best efforts to promote the interests of the Company Entities or that would materially conflict with the Company Entities' business as currently conducted, except as set forth in Section 3.18(e) of the Disclosure Schedule. To the knowledge of the Company, no current member of senior management of the Company Entities has given written notice of an intention to terminate his or her employment or engagement with the Company Entities, and no Company Entity has a present intention to terminate the employment or engagement of any such member of senior management, in each case other than terminations of employment or engagement in the ordinary course of business that will not be material to the Company Entities.

(f) In the five (5) years preceding the date of this Agreement, (i) no allegations of workplace psychological or sexual harassment or illegal retaliation or discrimination have been made known to the Company Entities, initiated, filed or, to the knowledge of the Company, threatened against the Company Entities or any Company Service Provider, (ii) to the knowledge of the Company, no incidents of any such workplace sexual harassment or illegal retaliation or discrimination have occurred, and (iii) none of the Company Entities has entered into any settlement agreement related to allegations of psychological or sexual harassment or illegal retaliation or discrimination by any Company Service Provider.

(g) No Company Service Provider located in Canada has any agreement with any Company Entity as to length of notice, termination or severance payment required to terminate his or her employment, other than pursuant to Applicable Law from the employment of an employee without an agreement as to notice or severance.

(h) All outstanding liabilities for payment of wages, including any liability for "banked" or otherwise unpaid overtime, accrued but unpaid vacation pay, sick days, salaries, bonuses, pensions, contributions under any Company Benefit Plan or other compensation, current or deferred, have been properly accrued by the Company Entities and reflected in the books and records of the business of the Company Entities.

(i) All orders and inspection reports under applicable occupational safety and health legislation ("**OSHA**") have been provided to the Buyer. The Company Entities are in compliance in all material respects with any orders issued under OSHA, and there are no appeals of any orders under OSHA currently outstanding. There have been no fatal or critical accidents within the last five (5) years that might reasonably be expected to lead to material charges involving any Company Entity under OSHA.

(j) True, correct and complete copies of all written employee policies and procedures have been provided to Buyers.

Section 3.19. *Company Benefit Plans.*

(a) Set forth in Section 3.19(a) of the Disclosure Schedule is an accurate and complete list of each Company Benefit Plan. With respect to each Company Benefit Plan, the Companies have provided to Buyers or their counsel a true and complete copy, to the extent applicable, of: (i) each writing constituting a part of such Company Benefit Plan, including any insurance Contracts, funding or other agreements, and all amendments thereto, and a written description of any material unwritten Company Benefit Plan; (ii) the most recent annual report and accompanying schedules; (iii) the current summary plan description and member booklets and any summaries of material modifications; (iv) the most recent asset statements, annual financial statements and actuarial reports; (v) the most recent determination or opinion letter received by any of the Company Entities from the IRS regarding the tax-qualified status of such Company Benefit Plan; (vi) the most recent written results of all required compliance testing; (vii) copies of any material correspondence with the IRS, United States Department of Labor or other Governmental Authority or other relevant Person; and (viii) investment management and other service provider Contracts. There has been no amendment to, or announcement by, any of the Company Entities relating to any Company Benefit Plan which would increase materially the expense of maintaining such plan above the level of the expense incurred therefor for the most recent fiscal year. The Company Entities may amend or terminate any Company Benefit Plan (other than any Company Benefit Plan that is an individual agreement or arrangement with a Company Service Provider (including an individual award or similar participation agreement under a Company Benefit Plan) that requires the Company Service Provider's consent of such amendment or termination) at any time without incurring any liability thereunder other than in respect of claims incurred prior to such amendment or termination and the customary costs of implementing such amendment or termination.

(b) Each Company Benefit Plan (and each related trust, insurance contract or fund) has been established, administered, invested, operated, maintained and funded in accordance with its express terms, and in compliance in all material respects with all Applicable Laws, including ERISA and the Code. There are no pending or, to the knowledge of the Company, threatened actions, claims or lawsuits against or relating to the Company Benefit Plans, the assets of any of the trusts under such Company Benefit Plans or the plan sponsor or the plan administrator, or against any fiduciary of the Company Benefit Plans with respect to the operation of such Company Benefit Plans (other than routine benefits claims). Neither the Company Entities nor, to the knowledge of the Company, any "party in interest" or "disqualified person" with respect to a Company Benefit Plan has engaged in a non-exempt "prohibited transaction" within the meaning of Section 4975 of the Code or Section 406 of ERISA. To the knowledge of the Company, no fiduciary (including within the meaning of Section 3(21) of ERISA) has breached any fiduciary duty with respect to a Company Benefit Plan or otherwise has any liability in connection with acts taken (or the failure to act) with respect to the administration or investment of the assets of any Company Benefit Plan. No Company Benefit Plan is presently under audit or examination (nor has written notice been received of a potential audit or examination) by any Governmental Authority. All payments required to be made by any of the Company Entities under, or with respect to, any Company Benefit Plan (including all contributions, distributions, reimbursements, premium payments or intercompany charges) with respect to all prior periods have been timely made or, for any such payments that are not yet due, properly accrued and reflected in the most recent consolidated balance sheet prior to the date hereof, in each case in accordance with the provisions of each of the Company Benefit Plans, Applicable Law and GAAP. There is not now, nor do any circumstances exist that could give rise to, any requirement for the posting of security with respect to a Company Benefit Plan or the imposition of any lien on the assets of any of the Company Entities under ERISA or the Code.

(c) With respect to each Company Benefit Plan that is intended to qualify under Section 401(a) of the Code, such Company Benefit Plan, and its related trust, has at all times since its adoption been so qualified and has received a current determination letter (or is the subject of a current opinion letter in the case of any prototype plan) from the IRS on which the Company Entities can rely that it is so qualified and that its trust is exempt from Tax under Section 501(a) of the Code, and nothing has occurred with respect to the operation of any such plan which could cause the loss of such qualification or exemption or the imposition of any material liability, penalty or Tax under ERISA or the Code. No stock or other securities issued by any of the Company Entities forms or has formed any part of the assets of any Company Benefit Plan that is intended to qualify under Section 401(a) of the Code.

(d) No Company Benefit Plan is, and none of the Company Entities or any ERISA Affiliate of the Company Entities have ever sponsored, established, maintained, contributed to or been required to contribute to, or in any way has any liability (whether on account of an ERISA Affiliate or otherwise), directly or indirectly, with respect to any plan that is, (i) subject to Title IV or Section 302 of ERISA or Section 412, 430 or 4971 of the Code or a "defined benefit" plan within the meaning of Section 414(j) of the Code or Section 3(35) of ERISA (whether or not subject thereto), (ii) a Multiemployer Plan, (iii) a plan that has two or more contributing sponsors at least two of whom are not under common control, within the meaning of Section 4063 of ERISA, (iv) a "multiple employer welfare arrangement" (as defined in Section 3(40) of ERISA), or (v) a plan maintained in connection with any trust described in Section 501(c)(9) of the Code. None of the Company Entities or any ERISA Affiliate has withdrawn at any time within the preceding six years from any Multiemployer Plan, or incurred any withdrawal liability which remains unsatisfied, and no events have occurred and no circumstances exist that could reasonably be expected to result in any such liability to any of the Company Entities.

(e) No event has occurred and no condition exists that would subject any of the Company Entities by reason of their affiliation with any ERISA Affiliate to any (i) Tax, penalty, fine, (ii) lien, or (iii) other liability imposed by ERISA, the Code or other Applicable Laws, in each case, in respect of any employee benefit plan maintained, sponsored, contributed to, or required to be contributed to by any ERISA Affiliate (other than the Company Entities).

(f) Each Company Benefit Plan that is subject to the Affordable Care Act has been established, maintained and administered in compliance with the requirements of the Affordable Care Act, including all notice and coverage requirements, and the Company Entities and each ERISA Affiliate offer minimum essential health coverage, satisfying the affordability and minimum value requirements, to their full time employees (as defined by the Affordable Care Act) sufficient to prevent liability for assessable payments under Section 4980H of the Code. None of the Company Entities has attempted to maintain the grandfathered health plan status under the Affordable Care Act of any Company Benefit Plan. None of the Company Benefit Plans provide medical, health, life or other welfare benefits after the termination of a Company Service Provider's employment or engagement, as applicable, except as may be required by Section 4980B of the Code and Section 601 of ERISA, to the minimum extend required by Canadian employment standards legislation, or any other Applicable Law or at the sole expense of the participant or the participant's beneficiary. Except as set forth in Section 3.19(f) of the Disclosure Schedule, no Company Benefit Plan that provides group health benefits is a self-insured arrangement by any of the Company Entities or funded through a trust and no event has occurred and no condition exists that could reasonably be expected to result in a material increase in the premium costs of any Company Benefit Plans that are fully-insured. None of the Company Entities have incurred (whether or not assessed) or are reasonably expected to incur or to be subject to any Tax or other penalty with respect to the reporting requirements under Sections 6055 and 6056 of the Code, as applicable, or under Section 4980B, 4980D or 4980H of the Code.

(g) Except as set forth in Section 3.19(g) of the Disclosure Schedule, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in combination with another event) (i) result in any payment becoming due, or increase the amount of any compensation or benefits due, to any Company Service Provider or with respect to any Company Benefit Plan; (ii) increase any benefits otherwise payable under any Company Benefit Plan; (iii) result in the acceleration of the time of payment or vesting of any such compensation or benefits, or the forgiveness of indebtedness of any Company Service Provider; or (iv) result in an obligation to fund or otherwise set aside assets to secure to any extent any of the obligations under any Company Benefit Plan. No Person is entitled to receive any additional payment (including any Tax gross-up or other payment) from any of the Company Entities as a result of the imposition of the excise Taxes required by Section 4999 of the Code or any Taxes required by Section 409A of the Code.

(h) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in combination with another event) result in any payment or benefit (whether in cash or property or the vesting of property) to any "disqualified individual" (as such term is defined in Treasury Regulations Section 1.280G-1) that could, individually or in combination with any other such payment, constitute an "excess parachute payment" (as defined in Section 280G(b)(1) of the Code).

(i) Each Company Benefit Plan that is a "nonqualified deferred compensation plan" (as defined in Section 409A(d)(1) of the Code) is in documentary compliance with, and has been administered in compliance with, Section 409A of the Code and applicable guidance thereunder and no amount under such Company Benefit Plan is or has been subject to the interest and additional Tax set forth under Section 409A(a)(1)(B) of the Code.

(j) No Company Entity has ever sponsored, administered, contributed to or been obligated to contribute to a "registered pension plan", a "retirement compensation arrangement", or an "employee life and health trust", each within the meaning of subsection 248(l) of the Income Tax Act (Canada). No Company Benefit Plan is intended to or has ever been found or alleged by a Governmental Authority to a "salary deferral arrangement" within the meaning of subsection 248(l) of the Income Tax Act (Canada).

(k) All Company Benefit Plans subject to the laws of any jurisdiction outside of the United States or that covers any Company Service Provider residing or working outside of the United States (each, a "**Foreign Benefit Plan**") (i) if they are intended to qualify for special tax treatment, meet all requirements for such treatment and, to the knowledge of the Company, there are no existing circumstances or events that have occurred that could reasonably be expected to affect adversely the special tax treatment with respect to such Foreign Benefit Plan, (ii) if they are intended to be funded or book-reserved, are fully funded or book reserved, as appropriate, based upon reasonable actuarial assumptions, (iii) if intended or required to be qualified, approved or registered with a Governmental Authority, is and has been so qualified, approved or registered and nothing has occurred that could reasonably be expected to result in the loss of such qualification, approval or registration, as applicable, (iv) have not received an advance Tax ruling, and (v) all employee, participant and beneficiary data required to administer such Foreign Benefit Plan in accordance with its terms and Applicable Law is in the possession or control of the Company Entities, such data is complete and correct in all material respects, and such data is maintained in a form sufficient to permit the proper administration of such Foreign Benefit Plan.

Section 3.20. *Environmental Matters.*

(a) The Company Entities are, and in the three (3) years preceding the date of this Agreement have been, in compliance in all material respects with all Environmental Laws applicable to the businesses of the Company Entities or the operation thereof. No Company Entity or Seller has received any written notice from any Governmental Authority threatening or seeking to withdraw, revoke, terminate, suspend, or adversely modify or renew any of the Companies' Environmental Permits. Except as set forth on Section 3.20(a) of the Disclosure Schedule, no written notice has been received by any Company Entity or Seller that remains unresolved and claims that (i) the operation of the businesses of the Company Entities or the operation thereof is in violation of any Environmental Law or Environmental Permit or (ii) any Company Entity is responsible (or potentially responsible) for Remedial Action with respect to the operation of the businesses of the Company Entities or the operation thereof.

(b) There are no Actions pending, or to the Company's knowledge, threatened against any Company Entity with respect to any Remedial Action, Environmental Law or Hazardous Substance. No Company Entity is subject to any Order pursuant to any Environmental Law. No Company Entity has caused or contributed to any Release which has given rise to or could reasonably be expected to give rise to any liabilities or investigatory, reporting, corrective, or remedial obligations pursuant to Environmental Laws. No Company Entity has assumed by Contract or by operation of law, or provided an indemnity with respect to, the liabilities of any other Person under Environmental Laws. Neither this Agreement nor the consummation of the transactions contemplated by this Agreement will result in any obligation for Remedial Action or consent of any Governmental Authority pursuant to any so-called "transaction triggered" or "responsible party transfer" Environmental Law.

(c) The Company Entities have provided Buyers with copies of all environmental audits, reports, and other material environmental documents relating to the current and former operations and facilities of the Company Entities which are in the Company Entities', or any of its Representatives' possession or reasonable control.

Section 3.21. *Taxes.*

(a) All Tax Returns filed or required to have been filed by any Company Entity have been timely filed (taking into account any valid extensions) with the appropriate Taxing Authorities, and all such Tax Returns are true, correct, and complete in all material respects.

(b) All Taxes due and payable by or with respect to any Company Entity (whether or not shown on any Tax Return) have been timely paid in full to the appropriate Taxing Authorities.

(c) No Company Entity (i) has entered into any agreement or waiver extending any statute of limitations in respect of Taxes or any extension of time with respect to a Tax assessment or deficiency, and no request for any such waiver or extension is currently pending, (ii) is presently contesting any Tax liability before any court or agency and (iii) has, nor has ever had, any branch, permanent establishment, office or agency outside of the country of its formation and is, nor has ever been, resident for Tax purposes in any jurisdiction outside of the country of its formation.

(d) Each Company Entity has complied in all material respects with requirements under Applicable Law to withhold or collect Taxes in connection with amounts paid or owing to creditors, stockholders, customers, employees, non-residents, members or other third parties, and has timely paid over such withholdings or collections to the proper Taxing Authorities to the extent due and payable, and complied in all material respects with all record retention and reporting requirements with respect thereto.

(e) No Company Entity has been in the last five (5) years, or is currently, the subject of an audit or other examination of Taxes or any Tax Return by any Taxing Authority (and no such audit is pending or contemplated). There is no proceeding currently pending or threatened in writing against any Company Entity in respect of any Taxes or Tax Return. No Company Entity has received from any Taxing Authority (including with respect to jurisdictions where they do not file Tax Returns or pay Taxes) any (i) notice indicating an intent to open an audit or other review with respect to Taxes, or (ii) notice of deficiency or proposed adjustment for any amount of Tax (or Tax attributes) proposed, asserted or assessed by any Taxing Authority.

(f) No written claim has been made by any Taxing Authority in a jurisdiction where any Company Entity does not file Tax Returns that such Company Entity is or may be required to file Tax Returns in, or subject to taxation by, that jurisdiction.

(g) No Company Entity: (i) has been a member of a consolidated, combined, affiliated, unitary, aggregate or other group for Tax purposes (other than a group the common parent of which is any Company Entity); (ii) has any liability for Taxes of any Person (other than any other Company Entity) under Treasury Regulations Section 1.1502-6 or Section 160 of the ITA (or any similar provision of state, local or non-U.S. law), as a transferee or successor, by contract, or by operation of law (other than a contract entered into in the ordinary course of business the principal purpose of which is not related to Taxes); (iii) is a party to or bound by, nor has any liability under, any Tax allocation, indemnification, sharing or similar agreements or arrangements (other than any customary Tax indemnification provisions contained in commercial agreements entered into in the ordinary course of business, the principal purpose of which is not related to Tax); or (iv) has distributed stock of another corporation, or had its stock distributed by another corporation, in a transaction that was purported or intended to be governed by Code Section 355 or Code Section 361 in the last two (2) years.

(h) There are no Liens (other than Liens for Taxes not yet due and payable) for Taxes on any of assets or properties of any Company Entity.

(i) No Company Entity is or has ever been a party to or claimed any Tax benefit from any "listed transaction," as defined in Section 6707A(c)(2) of the Code and the Treasury Regulations Section 1.6011-4(b)(2) (or any similar or provision of U.S. state or local or non-U.S. Tax Law).

(j) No Company Entity will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) change in, or use of an improper, method of accounting for a taxable period ending on or prior to the Closing Date, (ii) intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or non-U.S. income Tax law), (iii) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or non-U.S. income Tax law) executed on or prior to the Closing Date, (iv) installment sale or open transaction disposition made on or prior to the Closing Date, (v) prepaid amount received or deferred revenue accrued on or prior to the Closing Date or (vi) reserve or deduction claims in a Pre-Closing Tax Period. No Company Entity will be required to make any payment after the Closing Date as a result of an election under Section 965 of the Code.

(k) The unpaid Taxes of the Companies do not exceed the reserves for Tax liability (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth in the most recent Financial Statements (rather than any notes thereto), and there will be no increase in unpaid Taxes or in the Tax reserve from the date of the of the most recent Financial Statements through the Closing Date other than for items arising in the ordinary course of business or expressly contemplated by this Agreement.

(l) H&A Transport and H&A Logistics are each, as of the date hereof, properly treated, and at all times since January 1, 2005 have been properly treated, as a qualified Subchapter S subsidiary (within the meaning of Section 1361(b)(3)(B) of the Code), and, from and after the LLC Conversions and as of the Closing, will each be properly treated as an entity disregarded from its owner for U.S. federal (and applicable state and local) income Tax purposes. Royal Leasing is properly treated as a disregarded entity for U.S. federal (and applicable state and local) income Tax purposes and has at all times been properly treated as either a disregarded entity or partnership for U.S. federal (and applicable state and local) income Tax purposes. H&A Canada is properly treated as a corporation for U.S. federal income Tax purposes and has not made an election to change its classification for U.S. federal income Tax purposes.

(m) No H&A Equity owned by a Seller is, or at any time during the sixty (60)-month period ending on the Closing Date has been, "taxable Canadian property" of such Seller within the meaning of the ITA. Without limiting the generality of the foregoing, at no time during such sixty (60)-month period has more than fifty percent (50%) of the fair market value of any such H&A Equity been derived, directly or indirectly, from one or any combination of: (i) real or immovable property situated in Canada; (ii) Canadian resource properties; (iii) timber resource properties; or (iv) options in respect of, interests in, or for civil law rights in, any property described in clauses (i) to (iii).

(n) No Company Entity has any written request pending with any Taxing Authority relating to any ruling, change, or relief of Taxes of such Company Entity, including any such request (i) for a private letter ruling, (ii) for administrative relief, (iii) for technical advice, (iv) for a change of any method of accounting, or (v) for any other change or relief with respect to Taxes.

(o) All Tax credits, deductions, subsidies or refunds claimed by each Company Entity have been claimed in accordance with Applicable Law, including any calculation and documentation requirements, and no Company Entity will be required to repay any such credits, deductions, subsidies or refunds to any Governmental Authority.

(p) There are no circumstances existing or that have existed which have resulted or could result in the application to any Company Entity of sections 15 and 17, subsection 18(4), and sections 78 to 80.04 of the ITA or any analogous provision of any comparable law of any province or territory of Canada.

(q) No Company Entity has, or has ever been deemed to have, for purposes of the ITA acquired or had the use of property for proceeds greater than the fair market value thereof from, or disposed of property for proceeds less than the fair market value thereof to, or received or performed services or had the use of property for other than the fair market value from or to, or paid or received interest or any other amount other than at a fair market value rate to or from, any Person with whom it does not deal at arm's length. For all transactions between any Company Entity, on the one hand, and any non-resident Person with whom the Company Entity was not dealing at arm's length, for the purposes of the ITA, on the other hand, during a taxation year and ending on or before the Closing Date, the Company Entity, as applicable, has made or obtained records or documents that satisfy the requirements of paragraphs 247(4)(a) to (c) of the ITA.

Section 3.22 . *Finders' Fees.* There is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of any Company Entity who might be entitled to any fee or commission from any Company Entity in connection with the transactions contemplated by this Agreement.

Section 3.23. *Anti-Bribery.*

(a) No Company Entity, and no director, officer, employee, or agent of any Company Entity or, to the knowledge of the Company, any other Person acting on behalf of any Company Entity, is, or has in the five (5) years preceding the date of this Agreement, been the subject of, or received any notice, request, or subpoena regarding, or been made aware of any allegation concerning, any actual or alleged offense under any anti-bribery, anti-corruption or anti-fraud Applicable Law (including the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "**FCPA**"), the anti-corruption provisions of the Criminal Code (Canada), the Corruption of Foreign Public Officials Act (Canada), mail or wire fraud, honest services fraud, and commercial bribery) (collectively, the "**Anti-Corruption Laws**").

(b) No Company Entity, and no director, officer, employee or agent of any Company Entity, or, to the knowledge of the Company, any other Person acting on behalf of any Company Entity, has in furtherance of or in connection with the business of the Company Entities, directly or indirectly: (i) offered, promised or given any financial or other advantage or inducement to any Person with the intention of influencing a Person (whether or not such Person is the recipient of the advantage or inducement) to perform his, her or its function improperly, or where the acceptance of such advantage or inducement would itself be improper, in each case, contrary to Applicable Law; (ii) requested, agreed to receive or accepted any financial or other advantage or inducement where such request, agreement to receive or acceptance would be improper or likely to influence such Person in the performance of his, her or its role; (iii) offered, promised or given any financial or other advantage or inducement, or any other thing of value, to any public official or other representative of a Governmental Authority (or to any other Person at the request of, or with the acquiescence of, any public official or other representative of a Governmental Authority) corruptly, with the intention of influencing that Person in the performance of his, her or its public functions (whether or not that performance would be improper); (iv) engaged in any scheme to defraud, including a scheme to deprive another of money, property, or honest services; or (v) materially violated an Anti-Corruption Law.

Section 3.24. *Competition Act.* The Company Entities, in the aggregate, have less than C$93 million in assets in Canada and less than C$93 million in gross revenues from sales in, from or into Canada, both as calculated in accordance with the Competition Act.

Section 3.25. *Sanctions.*

(a) No Company Entity, nor, to the knowledge of the Company, any director, officer or employee thereof, is an individual or entity that is (i) listed in any Sanctions-related list of designated persons, including those maintained by Global Affairs Canada, Public Safety Canada, OFAC or the U.S. Department of State, (ii) operating, organized or resident in a country or region which is itself the subject or target of any Sanctions (a "**Sanctioned Country**") or (iii) owned or controlled (as determined in accordance with Applicable Law) by any person or persons specified in clause (i) or (ii) above or otherwise the target of Sanctions (together, "**Sanctioned Persons**"). Each Company Entity, and, to the knowledge of the Company, its directors, officers and employees are in compliance with applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in any Company Entity becoming a Sanctioned Person. No Company Entity, nor, to the knowledge of the Company, any director, officer or employee is engaged directly, or knowingly indirectly, in any business or transactions with any Sanctioned Person or in any Sanctioned Country, or in any manner that would result in the violation of Sanctions by any person.

(b) Each Company Entity is in compliance in all material respects with all applicable export control laws and regulations, including the Export Administration Regulations maintained by the U.S. Department of Commerce and all laws administered or enforced by Global Affairs Canada and the Canada Border Services Agency, including the Export and Import Permits Act (Canada) ("**Export Control Laws**"). No Company Entity (i) has been found in violation of, charged with, or convicted of, any Export Control Laws, (ii) has filed any voluntary disclosures with any Governmental Authority regarding possible violations of any Export Control Laws, and (iii) is, to the Company's knowledge, under investigation by any Governmental Authority for possible violation of any Export Control Laws.

Section 3.26. *Insurance Coverage.* Section 3.26 of the Disclosure Schedule sets forth each insurance policy (together with the name of the policyholder and each covered insured, the coverage allowance, the expiration date and the annual premium of such policies) relating to the assets, business, operations, employees, officers or directors of the Company Entities, true, complete and correct copies of which have been made available to Buyers (collectively, the "**Insurance Policies**"). No Company Entity is in default with respect to any of their obligations under any such insurance policy (including in regards to the payment of all premiums thereunder), and no event has occurred (no notice of cancellation or termination has been received by Sellers or any of the Company Entities) or is reasonably expected to occur that (with or without due notice or lapse of time or both) would constitute such a material breach or default. There are no, and in the three (3) years preceding the date of this Agreement, there have been no material pending or asserted claims against any such insurance policy as to which (i) any insurer has denied liability, (ii) coverage has been disallowed or (iii) the policy limit under any such insurance policy has been, or is expected to be, exhausted or materially reduced. To the knowledge of the Company, there are no policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies or in respect of which such underwriters have reserved their rights, other than ordinary course reservations of rights. No Company Entity has received any written or, to the knowledge of the Company, oral notice of default or threatening or pending cancellation termination, denial of coverage or non-renewal of, premium increase with respect to, or material alteration of coverage under, any such insurance policy in the three (3) years preceding the date of this Agreement. Taken together, the Insurance Policies, (a) do provide, and in the three (3) years preceding the date of this Agreement have provided, adequate insurance coverage for the properties and assets of the Company, and the operation of the businesses of the Company Entities or the operation thereof for all risks normally insured against by a Person carrying on the same business or businesses as the businesses of the Company Entities or the operation thereof and for all risks to which the Company is normally exposed and (b) are, and in the three (3) years preceding the date of this Agreement have been, sufficient for compliance with all (i) Applicable Laws and (ii) Contracts to which the Company is a party or by which the Company or any of its properties or assets is bound. Section 3.26 of the Disclosure Schedule also sets forth a correct list of all claims which have been made by or on behalf of the Company in the three (3) years preceding the date of this Agreement under any of the Insurance Policies, including any claims that are currently pending.

Section 3.27. *Related Party Transactions*. Except for employment relationships and compensation, benefits, travel advances and employee loans, in each case in the ordinary course of business or as disclosed in Section 3.27 of the Disclosure Schedule, no Company Entity is a party to any Contract that is material to the Company Entities, taken as a whole, with any Related Party of any Company Entity or any Seller. No Related Party of the Company Entities (other than any Company Entity) owns any material asset or property used in, or necessary to, any Company Entity's business, no Company Entity possesses, directly or indirectly, any financial interest in, or is a director, manager or officer of, any Person (other than any Company Entity) which is a material client, supplier, vendor, customer, lessor, lessee, or competitor of any Company Entity, and, to the knowledge of the Company, none of the Related Parties, directors, managers or officers of the Company Entities possesses, directly or indirectly, any such financial interest in, or is a director, manager or officer of, any such Person; provided, that ownership of five (5%) percent or less of any class of securities of a company whose securities are registered under the Securities and Exchange Act of 1934 and publicly traded shall not be deemed to be a financial interest for purposes of this Section 3.27.

Section 3.28. *Bank Accounts.* Section 3.28 of the Disclosure Schedule contains a true, complete and correct list of (a) all banks or other financial institutions with which any Company Entity has an account or maintains a lock box or safe deposit box, showing the type of each such account, lock box and safe deposit box and (b) the names of the Persons authorized as signatories thereon or to act or deal in connection therewith.

Section 3.29. *No Additional Representations or Warranties*. Except as specifically provided in this ARTICLE 3 or ARTICLE 4 of this Agreement or in the other Transaction Agreements, none of Sellers, any Company Entity or any of their respective Affiliates, nor any of their respective Related Parties or other Representatives has made, or is making, any representation or warranty whatsoever to Buyers or any of their Affiliates and no such party shall be liable in respect of the accuracy or completeness of any information or documents (including any projections on the future performance of the businesses of the Company Entities) provided to Buyers or any of their Affiliates, or any of their respective Related Parties or other Representatives.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF THE SELLERS

Except as set forth in the Disclosure Schedule, each Seller, severally and not jointly, hereby represents and warrants to Buyers that:

Section 4.01. *Existence and Power*. Such Seller, if not a natural person, is duly formed, validly existing and in good standing under the laws of its jurisdiction of formation and has all organizational powers required to carry on its business as now conducted.

Section 4.02. *Authorization.*

(a) If such Seller is not a natural person, the execution and delivery by such Seller and performance by such Seller of this Agreement and each other Transaction Agreement to which such Seller is a party and the consummation of the transactions contemplated hereby and thereby are within such Seller's organizational powers and have been duly authorized by all necessary organizational action on the part of such Seller. If such Seller is a natural person, such Seller has all requisite capacity to execute, deliver and perform this Agreement and each other Transaction Agreement to which such Seller is a party and to consummate the transactions contemplated hereby and thereby.

(b) This Agreement constitutes a valid, binding and enforceable agreement of such Seller and each other Transaction Agreement to which such Seller is a party, when executed and delivered by such Seller, will constitute a valid and binding agreement of such Seller, subject to the Remedies Exception.

Section 4.03. *Governmental Authorization.* Performance by such Seller of this Agreement requires no action by or in respect of, or filing with, any Governmental Authority other than any actions or filings, the absence of which would not reasonably be expected to, individually or in the aggregate, materially impair or delay such Seller's ability to perform or comply with its obligations under this Agreement or any of the Transaction Agreements or consummate the transactions contemplated hereby or thereby, to the extent applicable or be material to the Company Entities, taken as a whole.

Section 4.04. *Non-Contravention*. The execution, delivery and performance by such Seller of this Agreement and the consummation of the transactions contemplated hereby do not and will not (a) if such Seller is not a natural person, materially violate the organizational documents of such Seller as currently in effect, (b) assuming compliance with the matters referred to in Section 4.03, violate any Applicable Law; except for in the case of clause (b), as would not reasonably be expected, individually or in the aggregate, to materially impair such Seller's ability to perform or comply with its obligations under this Agreement or consummate the transactions contemplated hereby.

Section 4.05. *Litigation.* As of the date of this Agreement no Seller is, and in the three (3) years preceding the date of this Agreement, no Seller has been, a claimant or defendant in or otherwise a party to any Action concerning the businesses, properties, assets, or H&A Equity of such Company Entity or any current or former director, manager or officer of a Company Entity (in such capacity) which are in progress or, to the Company's knowledge, threatened in writing or pending, that would have or would reasonably be expected, individually or in the aggregate, to materially impair such Seller's ability to perform or comply with its obligations under this Agreement or consummate the transactions contemplated hereby.

Section 4.06. *Ownership of H&A Equity.* Such Seller is the record and beneficial owner of the H&A Equity set forth in Section 4.06 of the Disclosure Schedule next to such Seller's name. No such H&A Equity is encumbered by any Liens (other than Permitted Liens and Liens arising under provincial, state and federal securities laws) and each such Seller will transfer and deliver to Buyers at the Closing valid title to such H&A Equity, free and clear of any Liens (other than Permitted Liens and Liens arising under provincial, state and federal securities laws and Liens incurred by Buyers or any of their Affiliates).

Section 4.07. *Accredited Investor.* Hansen acknowledges that (a) the Parent Common Stock to be acquired by Hansen pursuant to this Agreement is being acquired for investment for Hansen's own account and not with a view to, or for sale in connection with, any distribution thereof in violation of the Securities Act; (b) Hansen is an "accredited investor" within the meaning of Rule 501(a) under the Securities Act and for purposes of Rule 502 of Regulation D under the Securities Act; (c) Hansen has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in the Parent Common Stock, and is able to bear the economic risk of such investment, including a complete loss of such investment; (d) Hansen has had access to all information that Hansen believes is necessary, sufficient or appropriate in connection with the investment; (e) Hansen has had the opportunity to read the "risk factors" in the filings Parent has made with the Securities and Exchange Commission prior to the date of this Agreement, and understands that an investment in Parent involves a high degree of risk and that Hansen could lose some or all of such investment; (f) Hansen has been given the opportunity to ask questions of, and receive answers from, representatives of Parent concerning Parent, its business, and the terms and conditions of Hansen's investment, and all such questions have been answered to Hansen's satisfaction; (g) Hansen is able to bear the economic risk of an investment in the Parent Common Stock, has adequate means of providing for his current, future and contingent financing needs, has no present need for liquidity with respect to its investment in the Parent Common Stock and is able to sustain a complete loss of its investment in the Parent Common Stock; (h) Hansen was not offered Parent Common Stock by any form of general solicitation or general advertising; and (i) the Parent Common Stock has not been registered under the Securities Act or any state securities laws, and that such shares may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of unless such sale, transfer, offer, pledge, hypothecation or other disposition is pursuant to the terms of (i) an effective registration statement under the Securities Act or (ii) an available exemption or qualification, to the extent available, from the registration requirements of the Securities Act and applicable state securities laws, in each case subject to Hansen's rights under the Registration Rights Agreement. Hansen acknowledges that the Parent Common Stock issued hereunder will bear the following or substantially similar legend thereon:

> "The shares represented by this certificate have not been registered under the Securities Act of 1933, as amended (the "Act"), or any state securities laws. The shares have been acquired for investment and may not be sold or transferred in the absence of an effective registration statement for the shares under such Act unless, in the opinion of counsel satisfactory to the issuer, registration is not required under such Act or any applicable state securities laws."

Section 4.08. *Finders' Fees.* There is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of such Seller who might be entitled to any fee or commission from any Company Entity in connection with the transactions contemplated by this Agreement.

Section 4.09. *No Additional Representations or Warranties*. Except as specifically provided in ARTICLE 3 or ARTICLE 4 of this Agreement or in the other Transaction Agreements, none of Sellers, any Company Entity or any of their respective Affiliates, nor any of their respective Related Parties or other Representatives has made, or is making, any representation or warranty whatsoever to Buyers or any of their Affiliates and no such party shall be liable in respect of the accuracy or completeness of any information or documents (including any projections on the future performance of the businesses of the Company Entities) provided to Buyers or any of their Affiliates, or any of their respective Related Parties or other Representatives.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF BUYERS

Buyers hereby represent and warrant to the Sellers that:

Section 5.01. *Existence and Power*. Each Buyer is duly organized and validly existing under the laws of its jurisdiction of organization and has all organizational powers required to carry on its business as now conducted.

Section 5.02. *Authorization.*

(a) The execution, delivery and performance by such Buyer of this Agreement and each other Transaction Agreement to which it is a party and the consummation of the transactions contemplated hereby and thereby are within the organizational powers of such Buyer and have been duly authorized by all necessary organizational action on the part of such Buyer.

(b) This Agreement constitutes a valid, binding and enforceable agreement of such Buyer and each other Transaction Agreement to which such Buyer is a party, when executed and delivered by such Buyer (and assuming the due authorization, execution and delivery by the other Parties thereto) will constitute a valid, binding and enforceable agreement of such Buyer, subject to the Remedies Exception.

Section 5.03. *Governmental Authorization*. Performance of this Agreement by such Buyer requires no action by or in respect of, or filing with, any Governmental Authority other than (a) the filing of applications and notices with, and receipt of approvals, licenses, authorizations or consents from, the Persons set forth in Section 3.04 of the Disclosure Schedule and (b) any actions or filings, the absence of which would not reasonably be expected, individually or in the aggregate, to materially impair or delay such Buyers' ability to perform or comply with its obligations under this Agreement or consummate the transactions contemplated hereby.

Section 5.04. *Non-Contravention*. The execution, delivery and performance by such Buyer of this Agreement and the consummation of the transactions contemplated hereby do not and will not (a) violate the organizational documents of such Buyer; (b) assuming compliance with the matters referred to in Section 5.03, violate any Applicable Law, require any consent or other action by any Person under, constitute a default under, or give rise to any right of termination, cancellation or acceleration of any right or obligation of such Buyer or to a loss of any benefit to which such Buyer is entitled under any provision of any agreement or other instrument binding upon such Buyer; or (c) result in the creation or imposition of any Lien on any asset of such Buyer, except for any Permitted Liens and with such exceptions, in the case of clauses (b) and (c), as would not reasonably be expected, individually or in the aggregate, to materially impair or delay such Buyer's ability to perform or comply with its obligations under this Agreement or consummate the transactions contemplated hereby.

Section 5.05. *Purchase for Investment*. Such Buyer is purchasing the H&A Equity for investment for its own account and not with a view to, or for sale in connection with, any distribution thereof. Such Buyer (either alone or together with its advisors) has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of its investment in the H&A Equity and is capable of bearing the economic risks of such investment.

Section 5.06. *Litigation*. Such Buyer is not a claimant or defendant in or otherwise a party to any litigation, arbitration or administrative proceedings, which are in progress or, to such Buyer's knowledge, threatened or pending that would reasonably be expected, individually or in the aggregate, to materially impair such Buyer's ability to perform or comply with its obligations under this Agreement or consummate the transactions contemplated hereby.

Section 5.07. *Financing*. Such Buyer has in full force and effect definitive financing documentation, including the M&T Loan Documents, providing funding in an amount sufficient to consummate the transactions contemplated by this Agreement, pay the Purchase Price and pay related fees and expenses, and to make such funds available at the Closing. There are no conditions to the funding of the Financing other than those expressly set forth therein, and no event has occurred that, with or without notice or lapse of time, would constitute a default or breach by any Buyer or, to Buyers' knowledge, any other party thereunder.

Section 5.08. *Finders' Fees*. Except for Raymond James Financial, Inc. (the fees and expenses of which will be borne in full by Buyers), there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of any Buyer who might be entitled to any fee or commission from any Person in connection with the transactions contemplated by this Agreement.

Section 5.09. *Stock Consideration Shares*. The Stock Consideration Shares, when issued and delivered in accordance with this Agreement, will be duly authorized, validly issued, fully paid and non-assessable, will be listed (or approved for listing) on the Nasdaq Stock Market, and will be issued free and clear of any Lien (other than restrictions on transfer arising under applicable securities laws and the Lock-Up Agreement). Parent is, and as of the Closing will be, current in all material respects in the filing of all reports, schedules, forms, statements and other documents required to be filed by Parent under the Securities Exchange Act of 1934, as amended, and is eligible to register the resale of the Stock Consideration Shares on a registration statement on Form S-3.

Section 5.10. *Inspections; No Other Representations.* Buyers are an informed and sophisticated purchaser, and has engaged expert advisors, experienced in the evaluation and purchase of businesses such as its acquisition of the H&A Equity and the other transactions contemplated hereunder. Buyers have undertaken such investigation and has been provided with and has evaluated such documents and information as it has deemed necessary to enable it to make an informed and intelligent decision with respect to the execution, delivery and performance of this Agreement. Buyers agree to accept the H&A Equity and the businesses of the Company Entities in the condition they are in on the Closing Date based upon their own inspection, examination and determination with respect thereto as to all matters and without reliance upon any express or implied representations or warranties of any nature made by or on behalf of or imputed to any Seller or any Company Entity or any of its or their respective Related Parties or other Representatives, except as specifically and expressly set forth in ARTICLE 3 or ARTICLE 4 of this Agreement or in the other Transaction Agreements, and Buyers acknowledge and agree that neither any Seller, nor any Company Entity, nor any of its or their respective Related Parties or other Representatives has made, or is making, any express or implied representation or warranty of any nature whatsoever to Buyers or any of their Affiliates, except as specifically and expressly set forth in ARTICLE 3 or ARTICLE 4 of this Agreement or in the other Transaction Agreements and no such party shall be liable in respect of the accuracy or completeness of any information or documents provided to Buyers or any of their Affiliates, except for the representations and warranties set forth in ARTICLE 3 or ARTICLE 4 of this Agreement or in the other Transaction Agreements. Without limiting the generality of the foregoing, Buyers acknowledge that none of the Sellers, any Company Entity or any of its or their Affiliates makes any representation or warranty with respect to (i) any projections, estimates or budgets delivered to or made available to Buyers of future operations, future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of the businesses of the Company Entities or (ii) any other information or documents made available to Buyers or their counsel, accountants or advisors with respect to the businesses of the Company Entities, except as expressly set forth in ARTICLE 3 or ARTICLE 4 of this Agreement or in the other Transaction Agreements.

Section 5.11. *Solvency*. Immediately after giving effect to the transactions contemplated by this Agreement, including the Financing, the payment of the Purchase Price and the payment of all related fees and expenses, each Buyer and each of its Subsidiaries (including the Company Entities) will be Solvent. For purposes of this Agreement, "**Solvent**" means, with respect to any Person, that (a) the fair saleable value of such Person's assets exceeds the amount required to pay its liabilities (including contingent liabilities), (b) such Person will be able to pay its debts and obligations as they become due in the ordinary course of business, and (c) such Person will not have unreasonably small capital with which to conduct its business as then conducted and proposed to be conducted. No Buyer is entering into the transactions contemplated by this Agreement with the intent to hinder, delay or defraud any present or future creditor of such Buyer or of any Company Entity.

ARTICLE 6
COVENANTS

Section 6.01. *Pre-Closing Obligations*.

(a) From the date of this Agreement until the Closing Date, except (i) as required by this Agreement, (ii) as set forth in Section 6.01 of the Disclosure Schedule or (iii) with the prior written consent of Buyers, the Companies shall, and shall cause their Subsidiaries to, use commercially reasonable efforts to conduct their businesses in the ordinary course in substantially the same manner heretofore conducted and use commercially reasonable efforts to preserve intact their business organizations and to preserve in all material respects its present commercial relationships; *provided*, that (x) no action by the Company Entities with respect to matters expressly permitted by an exception to Section 6.01(b) will be deemed a Breach of this Section 6.01(a), and (y) the Company Entities' failure to take any action prohibited by Section 6.01(b) will not be a Breach of this Section 6.01(a).

(b) Without limiting the generality of the foregoing, from the date hereof until the Closing Date, except (i) as required by this Agreement, (ii) as set forth in Section 6.01 of the Disclosure Schedule or (iii) with the prior written consent of Buyers (which shall not be unreasonably withheld, conditioned or delayed), the Companies shall not and the Companies shall not permit any of the other Company Entities to take any of the actions set forth in Section 3.09; provided, that none of the LLC Conversions, the Pre-Closing Reorganization or any action taken to effect either of the foregoing shall constitute a Breach of this Section 6.01.

Section 6.02. *Access*.

(a) From the date hereof until the Closing Date, subject to Applicable Law and the Confidentiality Agreements, the Company Entities shall, upon reasonable advance notice, (i) give Buyers, their counsel, financial advisors, auditors and other authorized representatives during Working Hours reasonable access to the offices and properties, and to copies of books and records, of the Company Entities; (ii) furnish to Buyers, their counsel, financial advisors, auditors and other authorized representatives such financial and operating data and any other information relating to the businesses of the Company Entities as such Persons may reasonably request; and (iii) instruct the employees, counsel and financial advisors of the Company Entities to reasonably cooperate with Buyers in their investigation of the businesses of the Company Entities. Any investigation pursuant to this Section 6.02 shall be conducted in such manner as not to interfere unreasonably with the conduct of the businesses of the Company Entities, and all requests for access shall be directed through only those Seller resources provided for under the Confidentiality Agreement. Notwithstanding the foregoing, the Company Entities shall not be required to provide or cause to be provided access to or disclose or cause to be disclosed information where such access or disclosure would, (i) jeopardize the attorney-client privilege, (ii) contravene any Applicable Law, contractual obligation or any confidentiality undertaking or (iii) cause significant competitive harm to the Company should the transactions contemplated by this Agreement not be consummated.

(b) On and after the Closing Date, Buyers will, and will cause the Company Entities to, (i) maintain the books and records of the business of the Company Entities for a period of seven (7) years; and (ii) upon reasonable written notice and during Working Hours, afford to Sellers and their respective agents reasonable access to (x) properties, copies of books and records for the period prior to Closing and (y) employees and auditors of the business of the Company Entities, in each case in such manner as not to interfere unreasonably with the conduct of the businesses of the Company Entities and solely to the extent necessary to permit Sellers to perform or satisfy any legal or regulatory obligation relating to any period on or before the Closing Date. Notwithstanding the foregoing, Buyers shall not be required to provide access or disclose information where such access or disclosure would, in Buyers' reasonable opinion, (i) jeopardize the attorney-client privilege, (ii) contravene any Applicable Law, contractual obligation or any confidentiality undertaking or (iii) cause significant competitive harm to the Company Entities.

Section 6.03. *Public Announcements*. Save for the press release or press releases in the form reasonably and mutually agreed upon by Buyers and the Seller Representative, no Party shall, without the prior written consent of the other Parties, issue any press release or make any other public announcement relating to this Agreement or the transactions contemplated hereby except to the extent required by Applicable Law, any regulatory or supervisory body or the rules of any securities exchange to which the disclosing Party is subject. Nothing in this Section 6.03 shall restrict or prohibit the making of any press release or other communication that is consistent in all material respects with press releases or other communications previously mutually agreed upon by the Parties.

Section 6.04. *Directors and Officers.* At or prior to the Closing, the Companies shall at Sellers' sole cost and expense, purchase or cause to be purchased a non-cancellable extension of the directors' and officers' liability coverage of the Company Entities' existing directors' and officers' insurance policies and the Company Entities' existing fiduciary liability insurance policies (collectively, "**D&O Tail Policy**"), which shall (i) be for a claims reporting or discovery period of at least six (6) years from and after the Closing with respect to any claim related to any period of time at or prior to the Closing, (ii) be from the Company Entities' current insurance carrier with respect to such coverage or an insurance carrier with the same or better credit rating and (iii) have terms, conditions, retentions and limits of liability that are no less favorable than the coverage provided under the Company Entities' existing insurance coverage; provided, that in no event shall the Sellers' be required to expend for the D&O Tail Policy an aggregate premium amount in excess of 300% of the premium amount per annum for the Company Entities' existing insurance coverage.

Section 6.05. *R&W Insurance*. Buyers shall cause any buyer-side representation and warranties insurance policy (a "**R&W Policy**") obtained by the Buyers in respect of this Agreement to expressly provide that the insurer(s) issuing such policy shall waive or otherwise not pursue any subrogation rights against Sellers or any of their respective Affiliates or any of their respective representatives. From and after the date hereof, Buyers shall not (and shall cause its Affiliates to not) grant any right of subrogation or otherwise amend, modify, terminate, or waive any term or condition of such R&W Policy in a manner inconsistent with the immediately preceding sentence. Each of Buyers, on the one hand, and the Sellers, on the other hand, shall each bear fifty percent (50%) of the RWI Costs. From and after issuance of any R&W Policy, Buyers shall not amend, modify, or otherwise change, terminate, or waive any provision of such R&W Policy in a manner adverse to any Seller. Buyers shall deliver (e-mail being sufficient) to the Seller Representative a true and complete copy of the bound R&W Policy (including all endorsements and the schedules thereto) promptly following the execution of this Agreement in accordance with Section 12.02, and shall provide the Seller Representative with a copy of any amendment, modification or waiver of the R&W Policy promptly after it becomes effective.

Section 6.06. *Confidentiality.* Effective upon the Closing, and without further action by any Party, the Confidentiality Agreements shall terminate. The Sellers agree that, for a period of three (3) years from and after the Closing Date, the Sellers shall, and shall cause their respective Affiliates to, treat and hold as confidential and not use or disclose to any or permit such use or disclosure, in each case without the prior authorization of Buyers, (a) all information concerning the businesses and affairs of the Company Entities as of the Closing Date and (b) the terms of this Agreement (including financial terms) (collectively, the "**Confidential Information**"). In the event that any Seller or any of its Affiliates is requested or required by law, rule, regulation, stock exchange rule, or legal process to disclose any Confidential Information, it shall, to the extent permitted by Applicable Law and reasonably practicable, notify Buyers promptly of the request or requirement so that Buyers, at their expense, may seek an appropriate protective order or waive compliance with the provisions of this Section 6.06. If such protective order or other remedy is not obtained, nor is a waiver hereunder provided, and such Seller or any of its Affiliates is required to disclose any Confidential Information under Applicable Law, it may disclose the portions of the Confidential Information required to be disclosed (and only such portions); provided that it shall use its commercially reasonable efforts to obtain, at the request and sole expense of Buyers, an order or other assurance that confidential treatment shall be accorded to such portion of the Confidential Information required to be disclosed. Notwithstanding the foregoing, for purposes of this Agreement, Confidential Information shall not include (i) information that enters the public domain (or becomes generally known within the industry), other than as a result of a disclosure by any Seller or any of their respective Affiliates in violation of this Section 6.06 and (ii) information acquired by any Seller or any of their respective Affiliates on a non-confidential basis from sources other than Buyers or a Company Entity to the extent such source was not bound by a confidentiality, fiduciary or other obligation.

Section 6.07. *The Seller Representative.*

(a) The Sellers collectively and irrevocably constitute and appoint the Seller Representative as their agent and representative to act from and after the date hereof and to do any and all things and execute any and all documents which the Seller Representative determines may be necessary, convenient or appropriate to facilitate the consummation of the transactions contemplated by this Agreement or otherwise to perform the duties or exercise the rights granted to the Seller Representative hereunder, including: (i) execution of the documents and certificates pursuant to this Agreement; (ii) providing instructions to the Escrow Agent in accordance with this Agreement and the Escrow Agreement; (iii) receipt and, if applicable, forwarding of notices and communications pursuant to this Agreement; (iv) administration of the provisions of this Agreement; (v) giving or agreeing to, on behalf of all or any of the Sellers, any and all consents, waivers, amendments or modifications deemed by the Seller Representative, in his sole and absolute discretion, to be necessary or appropriate under this Agreement or any other agreement contemplated hereby and the execution or delivery of any documents that may be necessary or appropriate in connection therewith; (vi) (A) disputing or refraining from disputing, on behalf of each Seller relative to any amounts to be received by such Seller under this Agreement or any agreements contemplated hereby, (B) negotiating and compromising, on behalf of each such Seller, any dispute that may arise under, and exercising or refraining from exercising any remedies available under, this Agreement or any other agreement contemplated hereby, and (C) executing, on behalf of each such Seller, any settlement agreement, release or other document with respect to such dispute or remedy; and (vii) engaging attorneys, accountants, agents or consultants on behalf of the Sellers in connection with this Agreement or any other agreement contemplated hereby. Buyers shall be entitled to rely conclusively (without further inquiry) on the instructions and decisions of the Seller Representative as to any actions required to be taken by the Seller Representative hereunder.

(b) Steven Hansen hereby accepts his appointment as the Seller Representative.

(c) The Seller Representative may resign from his position as the Seller Representative at any time by written notice delivered to Buyers and the Sellers. If there is a vacancy at any time in the position of the Seller Representative for any reason, such vacancy shall be filled by the majority vote of the Sellers (in accordance with the number of H&A Equity held by each Seller prior to the Closing and in accordance with the Allocation Schedule following the Closing) and shall be effective with respect to Buyers upon written notice to Buyers of the filling of such vacancy.

(d) All acts of the Seller Representative hereunder in his capacity as such shall be deemed to be acts on behalf of the Sellers and not of the Seller Representative individually. The Seller Representative shall not have any liability for any amount owed to Buyers, in his capacity as the Seller Representative, pursuant to this Agreement. The Seller Representative shall not be liable to the Company Entities or any other Person in his capacity as the Seller Representative, for any liability of a Seller. The Seller Representative shall not be liable to the Sellers, in his capacity as the Seller Representative, for any liability of a Seller or otherwise, or for any error of judgment, or any act done or step taken or omitted by it in good faith, or for any mistake in fact or Applicable Law, or for anything which it may do or refrain from doing in connection with this Agreement, except in the case of the Seller Representative's gross negligence or willful misconduct as determined in a final and non-appealable judgment of a court of competent jurisdiction. The Seller Representative may seek the advice of legal counsel in the event of any dispute or question as to the construction of any of the provisions of this Agreement or his duties or rights hereunder, and it shall incur no liability in his capacity as the Seller Representative to the Sellers and shall be fully protected with respect to any action taken, omitted or suffered by it in good faith in accordance with the advice of such counsel. The Seller Representative shall not by reason of this Agreement have a fiduciary relationship in respect of any Seller.

(e) At the Closing, pursuant to Section 2.04(b)(iii), Buyers deliver an aggregate amount equal to the Expense Fund Amount in immediately available funds by wire transfer to the account designated in writing by the Seller Representative to Buyers at least three (3) Business Days prior to the Closing (such amount, together with any interest or earnings thereon, the "**Expense Fund**"). The Seller Representative shall use the Expense Fund to pay the fees, costs and expenses (including the fees, costs and expenses of attorneys, accountants, agents, consultants and other advisors engaged pursuant to Section 6.07(a)) incurred by the Seller Representative in connection with the performance of his duties or the exercise of his rights under this Agreement, the Escrow Agreement and the other Transaction Agreements. The Expense Fund Amount shall be treated for all purposes as part of the consideration paid to the Sellers and shall be allocated among the Sellers in accordance with the Allocation Schedule.

(f) The Seller Representative shall hold the Expense Fund separate from his personal funds, shall not use the Expense Fund for any purpose other than as set forth in Section 6.07(e), and shall not be liable for any loss of principal of the Expense Fund other than as a result of his gross negligence or willful misconduct. The Sellers shall have no right to any portion of the Expense Fund until the Seller Representative determines, in his sole discretion, that the Expense Fund is no longer required, at which time the Seller Representative shall distribute the remaining balance of the Expense Fund (if any) to the Sellers in accordance with the Allocation Schedule. Buyers shall have no responsibility or liability for the Expense Fund, no obligation to monitor or replenish the Expense Fund, and no liability to any Seller with respect to the use or distribution of the Expense Fund, in each case following payment of the Expense Fund Amount at the Closing. The use of the Expense Fund shall not limit or otherwise affect the obligations of the Sellers to the Seller Representative under this Section 6.07.

Section 6.08. *Restrictive Covenants.*

(a) During the period beginning on the date hereof and ending on the fifth (5^{th}) anniversary of the Closing (the "**Restricted Period**"), each Seller shall not make, or cause to be made, and shall cause his or its Affiliates and his, its and their respective Representatives to refrain from making, any statement or communicate any information (whether oral or written) that disparages, or harms the reputation or business of Buyers, the Companies or their respective Subsidiaries and Affiliates or Persons who are former, present or future directors, officers, equity holders, executives or related Persons (including boards, Subsidiaries and Affiliates); provided, however, that no Seller will be restricted from (i) complying with any Applicable Law, provided that such compliance does not exceed that required by such Applicable Law, or (ii) communications (whether oral or written) or making statements in any proceeding to enforce such Seller's rights against Buyers, or their respective Subsidiaries and Affiliates (as determined after the Closing) under this Agreement or any other Transaction Agreement.

(b) Each Seller hereby covenants and agrees that during the Restricted Period, such Seller shall not, and shall cause his or its Affiliates not to, (i) directly or indirectly, acquire, finance, own any interest in, manage, control, participate in, consult with, render services for, use or authorize the use of his, her or its name in connection with, operate or in any manner engage in a Competitive Business (as defined below) or (ii) make any attempt, or assist or facilitate any other Person in taking or attempting to take, any of the actions described in the foregoing clause (i); provided, however, that each Seller and his or its Affiliates, in the aggregate, shall not be prohibited from owning less than five percent (5%) of the outstanding stock of any Person that is publicly traded on a national securities exchange so long as such Seller or its Affiliates (including through an entity controlled by such Seller) has no active participation in the business or management of such Person. For purposes of this Agreement, the term "**Competitive Business**" means, as of the date hereof, (A) the business conducted by Buyers or a Company Entity (or planned to be conducted by Buyers or a Company Entity) as of such date and (B) such other businesses as Buyers or a Company Entity are engaged, or with respect to which Buyers or a Company Entity has a written letter of intent, joint venture agreement, acquisition agreement, board resolutions (or minutes) or other similar written document to enter into such other business. Notwithstanding anything to the contrary in this Section 6.08(b), none of the following shall constitute a breach or violation of this Section 6.08(b), in each case solely with respect to the real property set forth on Section 6.08(b) of the Disclosure Schedule that is owned by the Sellers as of the Closing, and, with respect to any such property, only from and after such time as neither Buyers nor any of their Affiliates (including the Company Entities) leases or otherwise occupies such property: (x) the use by the Sellers or their Affiliates of any such property for the storage, staging or parking of open-lot vehicles or for vehicle maintenance, repair, service or related operations; and (y) the owning, managing, operating, leasing, subleasing or licensing by the Sellers or their Affiliates of any such real property, including the leasing or subleasing thereof to any Person; provided, that nothing in this Section 6.08(b) permits the Sellers or their Affiliates to move or transport any vehicle from one location to another (whether by hauling it or by driving or otherwise moving the vehicle itself), other than moving vehicles within or at such property for a purpose permitted above.

(c) During the Restricted Period, each Seller and its Affiliates shall not, without Buyers' prior written consent, directly or indirectly or in conjunction with any other Person, for such Seller's own account or for the account of any other Person (i) solicit, induce or hire any Company Entity employee, (ii) encourage, solicit, or induce any such Company Entity employee to terminate his, her or its employment or engagement with such Person or (iii) solicit, induce or attempt to induce any Person that is a customer, client, vendor, supplier or other business relation of the Company Entity to cease doing business or reduce the amount of business such Person does with such Company Entity; provided, however, that nothing in this Section 6.08(c) shall prevent any Seller from (A) engaging in general advertising or other general recruiting efforts (including through the engagement of search firms) not targeted at any such Company Entity employee or (B) hiring any such Company Entity employee following the period ending on the six-month anniversary of such Company Entity employee's cessation of employment or independent contractor relationship with Buyers, the Companies or any of their respective Subsidiaries or controlled Affiliates, in each case, without encouragement, solicitation or inducement by such Seller, directly or indirectly, in relation to such cessation of employment or independent contractor relationship.

(d) Each Seller acknowledges and recognizes the highly competitive nature of the businesses of the Company Entities, that access to Confidential Information renders it special and unique within the industry of the Companies, and each Seller has had the opportunity to develop substantial relationships with existing and prospective clients, vendors, producers, accounts, consultants, contractors, investors, and strategic partners of the Companies during the course of and as a result of such Seller's indirect ownership in and substantial involvement with the Companies. Each Seller acknowledges further and recognizes that its execution of and compliance with the terms of Section 6.08 were a material inducement to the Parties entering into this Agreement, in order to protect the businesses purchased in connection with the transactions contemplated by this Agreement, and that such Seller received substantial and sufficient consideration in connection with transactions contemplated by this Agreement. In light of the foregoing, each Seller recognizes and acknowledges that the restrictions and limitations set forth in Section 6.08 are reasonable and valid in scope (including temporal scope) and in all other respects and are essential to protect the value of the respective businesses of the Company Entities. Each Seller acknowledges further that (A) the restrictions and limitations set forth in this Section 6.08 will not materially interfere with such Seller's business or operations and (B) the consideration it will receive in connection with the Closing is a material condition to such Seller agreeing to the terms and conditions of Section 6.08.

(e) Each Seller agrees and acknowledges that irreparable damage for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that such Seller does not perform the provisions of Section 6.08 in accordance with its specified terms or otherwise Breach such provisions. It is accordingly agreed that Buyers shall be entitled to an injunction, specific performance and other equitable relief to prevent Breaches of Section 6.08 and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which Buyers is entitled at law or in equity. Each Seller agrees that he or it shall not oppose the granting of an injunction, specific performance and other equitable relief on the basis that Buyers has an adequate remedy at law.

(f) Each Party agrees that no portion of the Purchase Price shall be allocable to, and no proceeds shall be received or receivable by any Sellers for, the granting of the restrictive covenants (as defined at section 56.4 of the ITA) set forth in Section 6.08 (collectively, the "**Restrictive Covenants**"), and that such Restrictive Covenants are integral to this Agreement and have been granted to maintain or preserve the fair market value of the H&A Equity, including the HAC Shares and the Subsidiary of H&A Canada. Notwithstanding the foregoing, nothing in this Section 6.08(f) will diminish, limit or derogate from the validity or enforceability of the restrictive covenants granted in Section 6.08, and the Sellers agree that they will not assert or claim that this Section 6.08(f) diminishes, limits or derogates from the validity or enforceability of the Restrictive Covenants granted in Section 6.08 in any manner whatsoever. The Parties agree that the conditions in subsection 56.4(7) of the ITA have been satisfied such that subsection 56.4(5) of the ITA applies to the Restrictive Covenants set forth in Section 6.08 with respect to the purchase and sale of the H&A Equity, including the HAC Shares. Buyers and the Sellers agree to make, in respect of any Restrictive Covenant granted pursuant to this Agreement, any applicable elections or amended elections pursuant to section 56.4 of the ITA and any analogous provision of any Canadian provincial or territorial Tax statute, in prescribed form (or such other form as is reasonable) and within the prescribed time limits (or, if Buyers so request, at such later time as is permissible in accordance with Applicable Law or administrative practice of the relevant Governmental Authority).

Section 6.09. *Excluded Assets and Liabilities; Disposition of Carve-Out Equipment*.

(a) Prior to the Closing, the Sellers shall cause (i) prior to the Closing Date, each of H&A Transport and H&A Logistics to effect the LLC Conversions; (ii) the Company Entities to distribute, transfer, assign, convey or deliver to H&A or its designee, and Buyers shall acquire no right, title or interest in, the following assets and associated liabilities (collectively, the "**Excluded Assets and Liabilities**"): (A) the real property located in Smyrna, Tennessee (the "**Smyrna Property**"), (B) the tractor and trailer units specifically identified in Section 6.09(a)(ii) of the Disclosure Schedule (the "**Carve-Out Equipment**") and (C) the other assets and liabilities set forth in Section 6.09(a)(iii) of the Disclosure Schedule (collectively, the "**Pre-Closing Reorganization**"); and (iii) deliver true, correct and complete copies of the Governing Documents of each of H&A Transport and H&A Logistics immediately following the conversions described in clause (i).

(b) From and after the Closing until the six-month anniversary of the Closing Date, Buyers shall provide the Sellers with commercially reasonable support and assistance to facilitate the sale or other disposition of the Carve-Out Equipment, including reasonable maintenance, storage, transportation and auction preparation services. The Sellers shall reimburse Buyers for their actual, documented out-of-pocket costs incurred in providing such support and assistance, including any documented costs associated with providing reasonable maintenance services on any Carve-Out Equipment.

(c) Notwithstanding anything to the contrary in Section 6.08, the sale, auction, transfer, disposition or other monetization of the Carve-Out Equipment by any Seller or any of its Affiliates (or any Person acting on their behalf) to any Person shall not constitute a breach or violation of Section 6.08.

Section 6.10. *Amended and Restated Leases*.

(a) The Lease Form is attached hereto as Exhibit A and the Lease Form Addendum is attached hereto as Exhibit B. The Lease Form Addendum shall be attached as an exhibit to, and incorporated into, each Amended and Restated Lease in accordance with Paragraph 1.11 of the Lease Form. In the event of any conflict between the Lease Form Addendum and the printed provisions of the Lease Form, the Lease Form Addendum shall control.

(b) Prior to the Closing, Buyers and the Seller Representative shall cooperate in good faith to prepare, for each parcel of Leased Real Property identified in Section 2.04(a)(viii) of the Disclosure Schedule, a separate Amended and Restated Lease consisting of the Lease Form completed to reflect the Basic Provisions and other property-specific terms for such Leased Real Property (including the parties, premises, term, Base Rent and agreed use), with the Lease Form Addendum attached and incorporated in accordance with Section 6.10(a). Except for such property-specific completions, the terms of the Lease Form Addendum shall be incorporated into each Amended and Restated Lease without modification unless otherwise agreed in writing by Buyers and the Seller Representative. Each Amended and Restated Lease shall be executed and delivered by the applicable Company Entity and the applicable Related Party at the Closing.

ARTICLE 7
EMPLOYEE MATTERS

Section 7.01. *Treatment of Company Employees*. Each Company Service Provider who is an employee (including any Company Service Provider who is not actively working on the Closing Date as a result of an approved leave of absence, including any short-term or long-term disability leave, family or medical leave, military leave, workers' compensation leave, or other approved or legally protected leave of absence, in each case with a right to return to active employment under the applicable Company Entity's policies or Applicable Law) as of the Closing, is employed by a Company Entity shall continue employment with such Company Entity immediately following the Closing (each, a "**Continuing Employee**"). Buyers shall use commercially reasonable efforts to retain a substantial majority of the Continuing Employees in connection with and for a reasonable period of time following the Closing.

Section 7.02. *Continuation of Compensation and Benefits*. Following the Closing Date through December 31, 2026 (the "**Continuation Period**"), Buyers or their Affiliates shall, or shall cause the Companies to, provide to the Continuing Employees residing in the United States: an annual base salary or wage rate and short-term cash incentive compensation opportunities (including target annual bonus opportunities, commission targets and severance and excluding equity or equity-based compensation or other long-term incentive compensation opportunities) that are no less favorable in the aggregate to the annual base salary or wage rate and short-term cash incentive compensation opportunities (including target annual bonus opportunities, commission targets and severance and excluding equity or equity-based compensation or other long-term incentive compensation opportunities) provided to such Continuing Employees immediately prior to the Closing and other employee benefits (excluding pension benefits, retiree medical benefits or other retiree welfare benefits and nonqualified deferred compensation benefits), that are no less favorable in the aggregate to those provided to such Continuing Employees immediately prior to the Closing; provided, however, that for any Continuing Employee who has voluntary life and long-term care insurance policies where any Company Entity has agreed to pay the premiums, the Companies shall accrue in Net Working Capital as annual cash incentive compensation an amount equal to such remaining premiums for the calendar year in which the Closing occurs through December 31, 2026. For the avoidance of doubt, notwithstanding anything to the contrary in this Agreement, other than as set forth in Section 7.01, Buyers will not be required to retain any Continuing Employee through the Continuation Period.

Section 7.03. *Service Credit*. Buyers or their Affiliates shall provide the Continuing Employees full credit for all service with the Company Entities (including for service following the Closing) for all purposes under any Company Benefit Plan, any other employee benefit plan, program, policy or arrangement and any other service-based or seniority-based entitlement, in each case maintained or made available for the benefit of Continuing Employees as of and after the Closing by Buyers or any of its Affiliates (including the Company Entities), to the same extent such service would be recognized under any comparable plan, program, policy, arrangement or entitlement immediately prior to the Closing, in each case, except (i) to the extent that it would result in duplication of coverage or benefits for the same period of service, (ii) under retiree medical benefit or other retiree welfare benefit, nonqualified deferred compensation benefit, severance benefit, defined benefit or other frozen benefit plan, program, policy, arrangement or entitlement of Buyers or any Company Entity, as applicable, or (iii) with respect to vesting or other benefits under any equity incentive plan. With respect to any employee benefit plan of Buyers or their Affiliates (including the Company Entities) that is a welfare benefit plan in which any Continuing Employee becomes eligible to participate after the Closing, Buyers shall use commercially reasonable efforts to (a) to the extent permitted under the applicable plan and Applicable Law, cause to be waived all pre-existing condition limitations, exclusions, actively-at-work requirements and waiting periods with respect to such Continuing Employee and his or her eligible dependents for the plan year in which the Closing occurs, to the extent such limitations, exclusions, requirements or waiting periods were satisfied or waived under the comparable Company Benefit Plan immediately prior to the Closing, and (b) cause any deductibles, co-payments and out-of-pocket expenses paid by such Continuing Employee and his or her eligible dependents under the comparable Company Benefit Plan during the plan year in which the Closing occurs to be credited toward the deductibles, co-payments and out-of-pocket maximums under the corresponding welfare benefit plan of Buyers or their Affiliates for the plan year in which the Closing occurs.

Section 7.04. *Closing Year Bonus.* The Companies shall accrue in Net Working Capital annual cash incentive compensation for the calendar year in which the Closing occurs (the "**Closing Year Bonus**") through the Closing Date in accordance with the terms of the annual cash incentive compensation plans or programs in effect as of immediately prior to the Closing (the "**Bonus Plans**"). Buyers or their Affiliate shall, or shall cause the Companies to, pay a Closing Year Bonus to each eligible Continuing Employee who participated in the Bonus Plans immediately prior to the Closing and remains employed through the payment date, in accordance with the terms of the Bonus Plans and at the time such Closing Year Bonuses would normally be paid. Buyers or their Affiliate will determine the amount of the Closing Year Bonuses actually earned under the terms of the Bonus Plans, and provided that applicable conditions for payment are met, the amount of aggregate Closing Year Bonuses actually paid by Buyers and their Affiliate to eligible Continuing Employees shall be not less than the accrued amount of the Closing Year Bonus included in Net Working Capital (subject to individual limits under the terms of the Bonus Plans or any other Company Benefit Plan).

Section 7.05. *WARN Act.* Buyers and their Affiliates shall be solely responsible for providing all notices required to Company Service Providers located in the United States under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2109 et seq., or the regulations promulgated thereunder (the "**WARN Act**") (including comparable provincial (such as the *Employment Standards* Act (British Columbia) or other provincial employment standards legislation), state, local or other Applicable Law) and for taking all remedial measures, including, without limitation, the payment of all amounts, penalties, liabilities, costs and expenses if such notices are not provided, with respect to any obligations under the WARN Act (including comparable provincial, state, local or other legal requirements) arising out of or resulting from any termination of employment of (i) any Continuing Employees by Buyers and their Affiliates on or after the Closing Date or (ii) any Company Service Provider who does not become a Continuing Employee for any reason.

Section 7.06. *No Third-Party Beneficiaries*. Without limiting the generality of Section 12.09, nothing in this Agreement is intended to or shall (a) be treated as an amendment to, or be construed as amending, any Company Benefit Plan or other benefit plan, program or agreement sponsored, maintained or contributed to by any Seller or any of its Affiliates, any Company Entity, Buyers or any of their respective Affiliates, (b) prevent Buyers or their Affiliates from terminating any benefit plan in accordance with its terms, (c) prevent Buyers or their Affiliates, after the Closing Date, from terminating the employment of any Continuing Employee or (d) confer any rights or remedies (including third-party beneficiary rights) on any current or former director, employee, consultant or independent contractor of Seller or any of its Affiliates, any Company Entity, Buyers or any of their respective Affiliates or any beneficiary or dependent thereof or any other Person.

ARTICLE 8
TAX MATTERS

Section 8.01. *Transfer Taxes.* Any transfer, documentary, sales, use, stamp, registration and other similar Taxes and fees (including any penalties and interest) incurred in connection with this Agreement or the transactions contemplated herein (collectively, "**Transfer Taxes**") arising out of the transactions described in Section 6.09(a) shall be borne by Sellers, and all other Transfer Taxes shall be borne fifty percent (50%) by Buyers and fifty percent (50%) by Sellers. The Party responsible under Applicable Law shall timely file any Tax Return or other document with respect to such Transfer Taxes (and the other Party shall reasonably cooperate with respect thereto). The Parties shall reasonably cooperate to minimize or avoid any such Transfer Taxes that might be imposed to the extent permitted by Applicable Law. For the avoidance of doubt, Transfer Taxes shall not include Taxes imposed on or with respect to income (however denominated) or gain.

Section 8.02. *Agreed Tax Treatment.* For U.S. federal (and applicable state and local) Tax purposes, the Parties intend that (a) Royal Holdco shall be treated as a continuation of Royal Leasing under Section 708 of the Code, (b) the purchase and sale of H&A Transport, H&A Logistics, and Royal Leasing shall be treated as the purchase and sale of the assets of such Companies, (c) the purchase and sale of H&A Canada shall be treated as the purchase and sale of the stock of H&A Canada to which Section 1001 of the Code applies (and not a reorganization under Section 368 of the Code or part of a transaction described in Section 351 of the Code), and (d) the LLC Conversions shall be disregarded for U.S. federal (and applicable state and local) income Tax purposes and shall not result in a taxable event or in any change in the treatment of H&A Transport or H&A Logistics as entities disregarded from their owner (the "**Intended Tax Treatment**"). The Parties shall file all Tax Returns consistent with the Intended Tax Treatment and no Party shall take a position inconsistent with the Intended Tax Treatment unless otherwise required by a "determination" within the meaning of Section 1313 of the Code.

Section 8.03. *Cooperation.* Buyers and the Sellers shall reasonably cooperate, as and to the extent reasonably requested by the other Parties, at the requesting Party's sole expense, in connection with any audit, litigation or other proceeding with respect to Taxes of any Company and the preparation and filing of Tax Returns of any Company, in each case, for Pre-Closing Tax Periods or Straddle Periods. Such cooperation shall include (a) the retention and (upon the other Party's reasonable request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding or Tax Returns, (b) the signing of Tax Returns as may be reasonably requested by the requesting Party in connection with the preparation of any Tax Return or any audit or other proceeding that relates to any Company, and (c) making employees available on a mutually convenient basis with reasonable notice during normal business hours to provide additional information and explanation of any material provided hereunder. The Companies and Sellers agree to retain all books and records with respect to Tax matters pertinent to the Companies relating to any Pre-Closing Tax Period until the expiration of the applicable statute of limitations (and, to the extent notified by Buyers or any Seller, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any Taxing Authority. Any information obtained pursuant to this Section 8.03 providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes with respect to any Company shall be kept confidential by the Parties. This Section 8.03 shall not apply to any dispute or threatened dispute among the Parties.

Section 8.04. *Purchase Price Allocation.* Within ninety (90) days after the finalization of the Final Closing Statement, Buyers will deliver or cause to be delivered to the Sellers a draft allocation, for U.S. federal (and applicable state and local) income Tax purposes of the final Purchase Price (plus any liabilities or other relevant items treated as consideration for U.S. federal Income Tax purposes) among (a) H&A Transport and H&A Logistics, which shall be further allocated among the assets of H&A Transport and H&A Logistics, (b) Royal Leasing, which shall be further allocated among the assets of Royal Leasing, and (c) H&A Canada, in each case, in accordance with (i) Section 1060 of the Code and the Treasury Regulations thereunder and (ii) the principles set forth on Annex A (the "**Draft Allocation**"). The Sellers will have a period of forty-five (45) days to review and comment on such Draft Allocation. If the Sellers do not notify Buyers of an objection to the Draft Allocation within forty-five (45) days after Buyers' delivery of the Draft Allocation to the Sellers, the Draft Allocation shall be deemed final. If the Sellers notify Buyers in writing that the Sellers object to one or more items reflected in the Draft Allocation, the Sellers and Buyers shall negotiate in good faith to resolve such dispute; provided, however, that if the Sellers and Buyers are unable to resolve any dispute with respect to the Draft Allocation within thirty (30) days following the delivery of written notice of such dispute by Sellers, such dispute shall be resolved by the Auditor in accordance with the procedural principles set forth in Section 2.06(c). The fees and expenses of the Auditor shall be borne equally by the Sellers and Buyers. Except to the extent required to reflect a determination within the meaning of Section 1313(a) of the Code, the Draft Allocation as finally determined pursuant to this Section 8.04 (the "**Final Allocation**") shall be binding on the Parties for U.S. federal (and applicable state and local) income Tax purposes and the Parties (and their Affiliates) will report the allocation of the final Purchase Price (as determined for U.S. federal and applicable state and local income Tax purposes) among the assets of the Companies in a manner consistent with the Final Allocation, and no Party shall take any filing position for U.S. federal (and applicable state and local) income Tax purposes (in a Tax Return, audit or examination) inconsistent with such Final Allocation.

Section 8.05. *Straddle Period.* For purposes of this Agreement, whenever it is necessary to allocate Taxes for any Straddle Period: (a) property, ad valorem, intangible, and other periodic Taxes allocable to the Pre-Closing Tax Period shall be equal to the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of calendar days in the entire Straddle Period; and (b) Taxes (other than Taxes allocable under clause (a)) allocable to the Pre-Closing Tax Period shall be computed on the basis of a "closing of the books" as if such taxable period ended as of the end of the day on the Closing Date; provided that, in the case of any Taxes attributable to the ownership of any interest in any partnership, other "flow-through" entity or "controlled foreign corporation" (within the meaning of Section 957(a) of the Code or any comparable state, local or non-U.S. law), such computation shall be made as if the taxable period of such partnership, other "flow-through" entity or controlled foreign corporation ended as of the end of the day on the Closing Date (whether or not such Taxes arise in a Straddle Period of the applicable owner); provided further that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions) shall be allocated between the period ending on the Closing Date, on the one hand, and the period beginning after the Closing Date, on the other hand, in proportion to the number of calendar days in each period.

Section 8.06. *Push Out Election.* To the extent applicable, the Sellers and their respective Affiliates will cooperate to cause each Company to make a "push out" election under Section 6226(a) of the Code (and any corresponding election available under applicable state or local law) with respect to any imputed underpayment of or with respect to such Company for any Pre-Closing Tax Period and any Straddle Period.

Section 8.07. *Certain Canadian Tax Elections*.

(a) If it is determined that H&A Canada or any of its Subsidiaries has made an "excessive eligible dividend designation" (as defined in subsection 89(1) of the ITA), the Sellers hereby concur (or shall cause the recipient of the relevant dividend to concur) in the making of an election under subsection 185.1(2) of the ITA in respect of the full amount thereof, and such election shall be made by such entity in the manner and within the time prescribed by subsections 185.1(2) and 185.1(3) of the ITA.

(b) If it is determined that H&A Canada or any of its Subsidiaries has made an election under subsection 83(2) of the ITA in respect of the full amount of any dividend payable by it on shares of any class of its capital stock and the full amount of such dividend exceeded the amount of such entity's "capital dividend account" (as defined in the ITA) immediately before the dividend became payable, the Sellers hereby concur (or shall cause the recipient of the relevant dividend to concur) in the making of an election under subsection 184(3) of the ITA in respect of such dividend.

Section 8.08. *Tax Refunds*. All refunds or credits received in lieu of refunds for Income Taxes of H&A Canada and its Subsidiary (including any interest received in respect thereof) paid for any Pre-Closing Tax Period shall be for the account of the Sellers, in each case, solely to the extent received within three (3) years of the Closing Date; provided, that the Sellers shall not be entitled to any payment to the extent the applicable refund or credit (i) was reflected in the calculation of Purchase Price, as finally determined, (ii) is attributable to a change in Applicable Law after the date hereof or to the carryback of any losses or other Tax attributes from a period (or portion thereof) beginning on or after the Closing Date, or (iii) is required to be paid to a third party pursuant to an agreement entered into by the Sellers, the Companies, their Subsidiaries, or any of their Affiliates prior to the Closing. To the extent that Buyers, any of their Affiliates or any Company receives any such refund or credit after Closing, Buyers shall pay the amount thereof to the Sellers within ten (10) Business Days after receipt, net of any reasonable out-of-pocket costs incurred in obtaining such refund or credit. To the extent any such refunds or credits are subsequently disallowed, Sellers shall promptly pay to Buyers the amount of such disallowed refunds or credit (including any interest received in respect thereof).

Section 8.09. *Pre-Closing Taxes*. The Sellers shall be responsible for all Income Taxes of H&A Canada and its Subsidiary attributable to any Pre-Closing Tax Period (determined in accordance with Section 8.05 in the case of any Straddle Period). Buyers shall be responsible for all Income Taxes of H&A Canada and its Subsidiary attributable to any Tax period beginning after the Closing Date and the portion of any Straddle Period beginning on the day after the Closing Date (determined in accordance with Section 8.05 in the case of any Straddle Period).

Section 8.10. *Post-Closing Actions*. Except as required by Applicable Law, Buyers shall not, and shall cause its Affiliates (including H&A Canada and its Subsidiary) not to, (a) amend, refile or otherwise modify any Tax Return relating to a Pre-Closing Tax Period, (b) other than such elections described in Section 8.07, make or revoke any Tax election that has retroactive effect to a Pre-Closing Tax Period, (c) voluntarily approach any Taxing Authority with respect to any Tax matter relating to a Pre-Closing Tax Period, or (d) take any action outside the ordinary course of business on the Closing Date after the Closing that would increase the amount of Taxes allocable to a Pre-Closing Tax Period, in each case, solely with respect to Income Taxes of H&A Canada and its Subsidiary, without the prior written consent of the Sellers (not to be unreasonably withheld, conditioned or delayed).

Section 8.11. *Pre-Closing Tax Returns*. The Sellers shall prepare or cause to be prepared all Income Tax Returns of H&A Canada and its Subsidiary for all Tax periods that end on or before the Closing Date that are required to be filed after Closing. Such Tax Returns shall be prepared on a basis consistent with past practice except to the extent otherwise required by Applicable Law. Not later than thirty (30) days prior to the due date for filing any such Tax Return, the Sellers shall deliver a copy of such Tax Return, together with all supporting documentation and workpapers, to Buyers for their review and reasonable comment. Buyers will cause such Tax Return (as revised to incorporate Buyers' reasonable comments) to be timely filed and will provide a copy to the Sellers. Not later than five (5) days prior to the due date for payment of Taxes with respect to any such Tax Return, the Sellers shall pay to Buyers the amount of any Tax with respect to such Tax Return.

Section 8.12. *Pre-Closing Tax Contests*. If, after the Closing, Buyers receives notice of an audit or administrative or judicial proceeding with respect to any Income Tax or Income Tax Return with respect to the H&A Canada or its Subsidiary related to any Pre-Closing Tax Period (a "**Tax Contest**"), Buyers shall use commercially reasonable efforts to notify the Sellers within ten (10) Business Days of receipt of such notice. The Sellers shall have the option, at the Sellers' cost and expense, to assume control of any Tax Contest. For the avoidance of doubt, if Sellers do not elect to control any such Tax Contest, Buyers shall control such Tax Contest at the Sellers' cost and expense. The Sellers may exercise such option by providing written notice to Buyers within fifteen (15) Business Days of receiving notice of such a Tax Contest from Buyers. The Party that is in control of any Tax Contest pursuant to the terms of this Section 8.12 shall (a) keep the non-controlling Parties reasonably informed of the progress of such Tax Contest, (b) permit the non-controlling Parties (or the non-controlling Parties' counsels) to participate, at the non-controlling Parties' sole cost and expense, in such Tax Contest, including in meetings with the applicable Governmental Authority, and (c) not settle, compromise and/or concede any portion of such Tax Contest without the prior written consent of the non-controlling Party, which consent shall not be unreasonably withheld, conditioned or delayed. In the event of a conflict between this Section 8.12 and Section 11.06, this Section 8.12 shall control.

ARTICLE 9
CONDITIONS TO CLOSING

Section 9.01. *Conditions to Closing*.

(a) The obligations of Buyers and the Sellers to consummate the Closing are subject to the satisfaction of the following conditions (any or all of which may be waived in writing by Buyers and the Sellers, together, in whole or in part to the extent permitted by Applicable Law):

(i) there shall not be in force an injunction or order of any court of competent jurisdiction, or any Applicable Law adopted after the date hereof, in the United States enjoining, prohibiting or rendering illegal the Closing.

(b) The obligation of each Buyer to consummate the Closing is subject to the satisfaction of the following further conditions (any or all of which may be waived in writing by Buyers in whole or in part to the extent permitted by Applicable Law):

(i) (A) each of the Seller Fundamental Warranties and the Company Fundamental Warranties, disregarding all qualifications contained therein relating to materiality or Material Adverse Effect, shall be true and correct in all respects (other than in respect of any *de minimis* inaccuracies), as of the date hereof and as of the Closing Date, as if made at and as of such date, except with respect to representations and warranties which speak as to an earlier date, which representations and warranties shall be true and correct in all respects (other than in respect of any *de minimis* inaccuracies) at and as of such earlier date and (B) all other representations and warranties of the Company Entities and the Sellers, in each case, disregarding all qualifications contained therein relating to materiality or Material Adverse Effect, shall be true and correct as of the date hereof and as of the Closing Date, as if made at and as of such date, except with respect to representations and warranties which speak as to an earlier date, which representations and warranties shall be true and correct at and as of such date, except, in the case of this clause (B), for any failure to be true and correct that would not have a Material Adverse Effect or would not reasonably be expected, individually or in the aggregate, to materially impair any Seller's ability to perform or comply with its obligations under this Agreement or consummate the transactions contemplated hereby;

(ii) the Company Entities and the Sellers shall have performed all of their respective covenants or agreements set forth in the Agreement required to be performed by them at or prior to the Closing in all material respects;

(iii) no Material Adverse Effect shall have occurred since the date of this Agreement; and

(iv) Buyers shall have received a certificate signed by Seller Representative and by the Chief Executive Officer of the Companies to the effect that the conditions set forth in the foregoing clauses (i), (ii) and (iii) have been satisfied.

(v) The Sellers and the Companies, as applicable, shall have delivered to Buyers each of the deliverables required to be delivered pursuant to Section 2.04(a).

Notwithstanding anything to the contrary in this Agreement, the matter described on Section 9.01(b) of the Disclosure Schedule (the "**Specified Matter**"), and all effects, consequences and liabilities arising out of or relating to the Specified Matter, shall be disregarded for purposes of determining whether any condition set forth in this Section 9.01(b) has been satisfied, and the Specified Matter shall not constitute, or be taken into account in determining whether there has occurred, a Material Adverse Effect.

(c) The obligation of each Seller to consummate the Closing is subject to the satisfaction of the following further conditions (any or all of which may be waived by Seller Representative in whole or in part to the extent permitted by Applicable Law):

(i) (A) the representations and warranties contained in Section 5.01 and Section 5.02, disregarding all qualifications contained therein relating to materiality, shall be true and correct in all material respects as of the Closing Date, as if made at and as of such date, except with respect to representations and warranties which speak as to an earlier date, which representations and warranties shall be true and correct in all material respects at and as of such date, and (B) the other representations and warranties of Buyers contained in this Agreement, disregarding all qualifications contained therein relating to materiality, shall be true and correct as of the Closing Date, as if made at and as of such date, except with respect to representations and warranties which speak as to an earlier date, which representations and warranties shall be true and correct at and as of such date, except any inaccuracy or omission that would not reasonably be expected, individually or in the aggregate, to materially impair Buyer's ability to perform or comply with its obligations under this Agreement or consummate the transactions contemplated hereby;

(ii) the covenants of Buyers to be performed prior to the Closing shall have been performed (or any non-performance shall have been cured) in all material respects;

(iii) the Sellers shall have received a certificate signed by an executive officer of Buyers to the effect that the conditions set forth in the foregoing clauses (i) and (ii) have been satisfied; and

(iv) Buyers shall have delivered to the Sellers each of the deliverables required to be delivered pursuant to Section 2.04(b).

Section 9.02. *Effect of Closing*. All conditions to the Closing shall be deemed to have been satisfied or waived from and after the consummation of the Closing.

Section 9.03. *Frustration of Closing Conditions*. No Party may rely on the failure of any condition set forth in this ARTICLE 9 as a basis for failing to consummate the Closing or for terminating this Agreement if such failure was caused, in whole or in material part, by such Party's failure to comply with any provision of this Agreement or to use the efforts required by this Agreement to cause the Closing to occur. Without limiting the foregoing, no Buyer may rely on the failure of any condition set forth in this ARTICLE 9 where such failure results, in whole or in part, from the failure of any Buyer to obtain, maintain or fund the Financing.

ARTICLE 10
TERMINATION

Section 10.01. *Termination*.

(a) This Agreement may be terminated at any time prior to the Closing:

(i) by mutual written agreement of the Sellers and Buyers;

(ii) by either the Seller Representative or any Buyer if Closing has not occurred before August 14, 2026 (the "**Outside Date**"); provided, that the right to terminate this Agreement pursuant to this Section 10.01(a)(ii) shall not be available to (i) the Seller Representative if a Seller's or a Company's Breach of any provision of this Agreement proximately results in the failure of the Closing to have occurred by such time or (ii) Buyers if any Buyer's Breach of any provision of this Agreement proximately results in the failure of the Closing to have occurred by such time or if the failure of the Closing to have occurred by such time results, in whole or in part, from the failure of any Buyer to obtain, maintain or fund the Financing, whether or not such failure constitutes a Breach;

(iii) by either the Seller Representative or Buyers if consummation of the transactions contemplated hereby would violate any non-appealable final order, decree or judgment of any Governmental Authority in the United States having competent jurisdiction; provided that the right to terminate this Agreement pursuant to this Section 10.01(a)(iii) shall not be available to (i) the Seller Representative if a Seller's or a Company's Breach of any provision of this Agreement proximately results in the existence or adoption of such order, decree or judgment or (ii) Buyers if any Buyer's Breach of any provision of this Agreement proximately results in the existence or adoption of such order, decree or judgment;

(iv) by Buyers if there is any material Breach of any representation, warranty, covenant or agreement on the part of the Companies or the Sellers set forth in this Agreement, such that the conditions specified in Section 9.01(b)(i) or Section 9.01(b)(ii) would not be satisfied at the Closing (a "**Terminating Seller Breach**"); provided, that Buyers may not terminate under this Section 10.01(a)(iv) if any Buyer is then in material Breach of this Agreement; or

(v) by the Seller Representative if there is any material breach of any representation, warranty, covenant or agreement on the part of a Buyer set forth in this Agreement, such that the conditions specified in Section 9.01(c)(i) or Section 9.01(c)(ii) would not be satisfied at the Closing (a "**Terminating Buyer Breach**"); provided, that the Seller Representative may not terminate under this Section 10.01(a)(v) if any Seller is then in material Breach of this Agreement.

(b) The Party desiring to terminate this Agreement pursuant to Section 10.01(a)(ii), 10.01(a)(iii), 10.01(a)(iv) or 10.01(a)(v) shall give written notice of such termination to the other Party.

Section 10.02. *Effect of Termination*. If this Agreement is terminated as permitted by Section 10.01(a), this Agreement shall become null and void and such termination shall be without liability (except for any liability in accordance with the provisions (and subject to the limitations) of this Section 10.02) of any Party (or any Related Party or other Representative of such party) to the other parties to this Agreement; *provided* that if such termination shall result from the Willful Breach of a Party, such Party shall be fully liable for any and all damages incurred or suffered by another Party as a result of such Willful Breach, other than as provided in Section 2.09(a)(ii). Notwithstanding the foregoing, the provisions of Section 6.03, Section 6.08(b), this Section 10.02 and Article 12 (other than Section 12.03) and, for the avoidance of doubt, the Confidentiality Agreements, shall survive any termination of this Agreement. For purposes hereof, "**Willful Breach**" means any breach of this Agreement that is the consequence of an action or omission by any party that knew or should have known that the taking of such action or the failure to take such action would be a breach of this Agreement and is the proximate cause of the failure of any of the conditions in this ARTICLE 10 to be satisfied prior to the termination date, including, for the avoidance of doubt, the failure of Buyer to close the transactions contemplated herein in circumstances in which all of the closing conditions set forth in Section 9.01(a) and (b) have been satisfied or validly waived. Notwithstanding anything to the contrary in this Agreement, if an award of damages is sought against Buyers for any alleged breach of this Agreement by Buyers occurring prior to the Closing, any such award of damages shall not be limited to reimbursement of expenses or out-of-pocket costs, and shall include the benefit of the bargain lost by the Sellers, which benefit of the bargain (i.e., expectancy damages) shall be recoverable by the Sellers. Notwithstanding anything to the contrary contained in this Agreement, under no circumstances will any party be entitled to receive both a grant of specific performance resulting in the consummation of the transactions contemplated hereby and payment of monetary damages of any kind.

ARTICLE 11
INDEMNIFICATION

Section 11.01. *Survival.* The representations, warranties, covenants and other agreements set forth in this Agreement and in any Transaction Agreement shall survive the Closing as follows:

(a) Except as set forth in Section 11.01(b) or in the case of Fraud, all of the representations and warranties of the Parties contained in this Agreement (including the Disclosure Schedule, schedules and exhibits attached hereto and the certificates delivered pursuant hereto) shall terminate as of the Closing, and no Party nor any of their respective Affiliates or its or their respective Representatives shall have any recourse against any other Party or any of their respective Affiliates or its or their respective Representatives with respect to such representations and warranties.

(b) The Company Fundamental Warranties and the Seller Fundamental Warranties shall survive until the expiration of the statute of limitations.

(c) The covenants and agreements contained in this Agreement shall survive the Closing until performed in accordance with their respective terms or, if no time period for performance is contemplated, for a period of one year following the Closing; provided, that the indemnification obligations under Section 8.09 shall survive until ninety (90) days following the expiration of the applicable statute of limitations having regard to any waiver or extension and the indemnification obligations under Section 11.02 shall survive until ninety (90) days following the expiration of the applicable statute of limitations; provided, however, that the indemnification obligations set forth Section 11.02(b) of the Disclosure Schedule shall survive until the expiration of the applicable time periods set forth therein.

(d) Notwithstanding the foregoing, except as set forth in Section 6.05, nothing in this Section 11.01 or in any other provision in this Agreement shall prevent or limit the rights or remedies of Buyers (i) with respect to claims arising from Fraud or (ii) to pursue recoveries under the R&W Policy.

Section 11.02. *Indemnification by the Sellers.* From and after the Closing, the Sellers shall severally and not jointly indemnify Buyers, their Affiliates (including the Company Entities) and their respective direct and indirect equityholders, members, partners, directors, managers, officers, employees, agents, representatives, successors and assigns (collectively, the "**Buyer Indemnified Parties**") and save and hold each of them harmless against and pay on behalf of or reimburse such Buyer Indemnified Parties for any Losses, which any Buyer Indemnified Party may suffer, sustain or become subject to as a result of, in connection with, relating or incidental to or by virtue of: any inaccuracy in or Breach of any Company Fundamental Warranty and/or any Seller Fundamental Warranty; the matters set forth in Section 11.02(b) of the Disclosure Schedule; the Pre-Closing Reorganization; or Fraud (collectively, the "**Surviving Indemnity Obligations**").

Section 11.03. *Limitation on Indemnification.* The indemnification provided for in Section 11.02 shall be subject to the following limitations:

(a) The Sellers shall not be liable with respect to Losses:

(i) under Section 11.02(a) for an aggregate amount of Losses in excess of the Closing Purchase Price; and

(ii) under Section 11.02(b) for an aggregate amount of Losses in excess of the amounts set forth in Section 11.02(b) of the Disclosure Schedule;

provided, however, that none of the foregoing limitations shall apply to, limit or otherwise affect any Action based upon Fraud.

Section 11.04. *Exclusive Remedy*. Each of the Buyer Indemnified Parties hereby acknowledges that, other than in connection with Fraud by the Sellers, the sole and exclusive remedy of any Buyer Indemnified Party for monetary damages arising from a Breach of this Agreement shall be the indemnification provisions set forth in this ARTICLE 11.

Section 11.05. *Notice of Claims.*

(a) Any Buyer Indemnified Party shall, promptly within the limitation period provided for in Section 11.01, give to the Seller Representative, a written notice (a "**Claim Notice**") that includes a general description of the facts giving rise to the claim for indemnification hereunder that is the subject of the Claim Notice (if and to the extent then known), a good faith estimate of the amount of such claim (if known) and a reference to the provision(s) of this Agreement upon which such claim is based. A Claim Notice shall be given promptly following the claimant's determination that facts or events give rise to a claim for indemnification hereunder; provided that the failure to give such written notice (i) shall not relieve the Sellers of their obligations under this ARTICLE 11, except to the extent they have been actually and materially prejudiced by such failure, and (ii) shall not relieve the Sellers of any other obligation or liability they may have to any Buyer Indemnified Party otherwise under this ARTICLE 11.

(b) The Seller Representative shall have thirty (30) days after the giving of any proper Claim Notice pursuant hereto to: (i) agree to the amount set forth in the Claim Notice and to pay or cause to be paid such amount to such Buyer Indemnified Party in immediately available funds; or (ii) provide such Buyer Indemnified Party with written notice that it disagrees with the claim set forth in the Claim Notice (the "**Dispute Notice**"). For a period of sixty (60) days after the giving of any Dispute Notice, a representative of each of the Seller Representative and the Buyer Indemnified Party shall negotiate in good faith to resolve the matter. In the event that the controversy is not resolved within sixty (60) days after the date the Dispute Notice is given, the Parties may thereupon proceed to pursue any and all available remedies at law. If the Seller Representative agrees to the Claim Notice pursuant to clause (i) above or fails to provide a timely Dispute Notice pursuant to clause (ii) above, then, the Buyer Indemnified Party shall be entitled to the remedies set forth in Section 11.03.

Section 11.06. *Third Party Claims.*

(a) If a claim by a third Person (other than a Buyer Indemnified Party or any of its Affiliates) (a "**Third Party Claim**") is made against a Buyer Indemnified Party, and if such Buyer Indemnified Party intends to seek indemnity with respect thereto under this ARTICLE 11, such Buyer Indemnified Party shall promptly notify the Seller Representative in writing of such claims (a "**Third Party Claim Notice**"). The Third Party Claim Notice shall include a general description of the facts giving rise to the claim for indemnification hereunder that is the subject of the Third Party Claim Notice, (if and to the extent then known) the amount or an estimate of the amount of such claim (if known) and all material documentation relevant to the claim described in the Third Party Claim Notice. A Third Party Claim Notice shall be given promptly following the claimant's determination that facts or events give rise to a claim for indemnification hereunder; provided that in respect of any Action at law or suit in equity by or against a third Person as to which indemnification will be sought shall be given promptly after the Action or suit is commenced; provided further that the failure to give such written notice (i) shall not relieve the Sellers of their obligations under this ARTICLE 11, except to the extent they have been actually and materially prejudiced by such failure, and (ii) shall not relieve the Sellers of any other obligation or liability they may have to any Buyer Indemnified Party otherwise under this ARTICLE 11.

(b) The Seller Representative may at any time deliver written notice to the Buyer Indemnified Party that it intends to undertake, conduct and control, through counsel of its own choosing and at its own expense, the settlement or defense thereof, and the Buyer Indemnified Party shall reasonably cooperate with the Seller Representative in connection therewith; the Seller Representative shall not be entitled to undertake, conduct and control such settlement or defense, but shall be entitled to participate in such settlement or defense through one counsel of its own choosing, if (A) in the reasonable opinion of outside counsel for such Buyer Indemnified Party, there is a reasonable likelihood of a conflict of interest between the Seller Representative and the Buyer Indemnified Party or (B) such Third Party Claim arises in connection with any criminal or quasi-criminal proceeding, or is brought by a Governmental Authority. If the Seller Representative undertakes to conduct and control the settlement or defense of a Third Party Claim, it shall take all steps reasonably necessary in the settlement or defense of such Third Party Claim and shall diligently pursue the resolution of such Third Party Claim. Should the Seller Representative elect to assume the defense of a Third Party Claim, the Seller Representative shall not be liable to the Buyer Indemnified Party for legal expenses subsequently incurred by the Buyer Indemnified Party in connection with the defense thereof. If the Seller Representative elects to assume the defense of a Third Party Claim, the Buyer Indemnified Party shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the Seller Representative, it being understood, however, that the Seller Representative shall control the defense. If the Seller Representative does not notify the Buyer Indemnified Party in writing that it elects to undertake the defense of such Third Party Claim within ten (10) Business Days after receipt of the Third Party Claim Notice, the Buyer Indemnified Party shall have the right to undertake the defense or prosecution of the claim through counsel of its own choice, and the reasonable fees and expenses incurred in connection with such defense or prosecution shall be considered Losses hereunder with respect to the subject matter of such claim, indemnifiable to the extent provided in this ARTICLE 11; provided, however, that in the event the Buyer Indemnified Party undertakes such defense or prosecution, it shall not settle or consent to the entry of judgment of such Third Party Claim without the prior written consent of the Seller Representative, which consent shall not be unreasonably conditioned, withheld or delayed. Notwithstanding the foregoing, the Seller Representative shall be entitled to assume the settlement or defense of a Third Party Claim under this Section 11.06(b) only if the Third Party Claim involves solely monetary damages. In the event the final resolution of such Third Party Claim results in a payment to Buyers or their Affiliates, Buyers will discuss with the Seller Representative in good faith the allocation of such payment among them taking into account the Sellers' interest in such claim as well as the costs of Buyers and their Affiliates in pursuing such Third Party Claim, including (i) any fees and expenses of counsel to Buyers and their Affiliates not yet reimbursed to a Buyer Indemnified Party by the Sellers pursuant to Section 11.02 and (ii) the usage of internal resources of Buyers and their Affiliates in connection with such Third Party Claim.

(c) The Seller Representative shall not settle or consent to the entry of judgment of any Third Party Claim without the prior written consent of the Buyer Indemnified Party, which consent shall not be unreasonably conditioned, withheld or delayed, unless such settlement or judgment (i) provides solely for monetary damages and (ii) will be fully satisfied by the Seller Representative.

Section 11.07. *Tax Treatment*. All indemnification payments made under this Agreement shall be treated by the Parties as an adjustment to the Purchase Price for Canadian and U.S. federal (and applicable provincial, state and local) income Tax purposes except as otherwise required by Applicable Law.

Section 11.08. *Insurance or Other Proceeds*. For purposes of determining the amount of any Losses subject to indemnification under this ARTICLE 11, the amount of such Losses will be determined net of the sum of any amounts recovered under insurance policies or other amounts recovered from third parties with respect to such Losses less any out-of-pocket expenses incurred to recover such proceeds, any resulting increase in premiums and any Taxes imposed on such proceeds ("**Insurance or Other Proceeds**"). For the avoidance of doubt, other than as described below in Section 11.10 with respect to the R&W Policy, nothing contained herein shall obligate Buyers or any of their Affiliates to obtain any such insurance policies or to pursue recovery under any insurance policies (or against any third party) prior to seeking recovery with respect to the applicable Losses from the Sellers in accordance with the terms of this Agreement.

Section 11.09. *No Double Recovery*. In no event shall the Buyer Indemnified Party be entitled under this Agreement to the recovery of the same Loss more than once, regardless of whether the claim for the Loss may be brought under multiple provisions of this Agreement; and in the event that any Insurance or Other Proceeds are received by a Buyer Indemnified Party after payment for the related indemnification claim has been made pursuant to this ARTICLE 11, then the Buyer Indemnified Party shall pay to the Sellers an amount equal to the amount of the reduction in Losses that would have been applied pursuant to this Section 11.09 had such Insurance or Other Proceeds been received at the time such indemnification claim was made. No amount may be recovered as a Loss with respect to any particular matter to the extent such amount with respect to such matter was expressly listed on the Preliminary Closing Statement (as finally determined pursuant to Section 2.06) or specifically taken into account as part of the Purchase Price adjustments under Section 2.06(c) and Section 2.06(e).

Section 11.10. *Mitigation; Manner of Payment*. Any Buyer Indemnified Party shall take commercially reasonable steps to mitigate any Losses (other than with respect to Taxes) incurred by such party upon and after obtaining knowledge of any event or condition that would reasonably be expected to give rise to any indemnification rights hereunder; provided, however, that in fulfilling its obligation to mitigate hereunder, such party shall not be required to (a) incur any material out-of-pocket costs or expenses in connection with such efforts unless the Seller Representative has agreed in writing to reimburse such party for any such costs or expenses or (b) bring or maintain any proceedings, Actions or suits against third parties. Each of the Parties acknowledges and agrees that the failure of a Buyer Indemnified Party to mitigate Losses pursuant to this Section 11.10 shall not be a bar to make a claim for or recover Losses by such non-mitigating Party. With respect to claims for Losses arising from the Surviving Indemnity Obligations, any indemnification of the Buyer Indemnified Party pursuant to this ARTICLE 11 shall be effected (i) first, from the R&W Policy and (ii) second, to the extent that the R&W Policy has been exhausted, then by the Sellers by wire transfer of immediately available funds to an account or accounts designated by Buyers within three (3) Business Days after the determination thereof; provided that a Buyer Indemnified Party may, at its election and upon reasonable advance notice to the Seller Representative, set-off against any amounts owed by any Buyer Indemnified Party to such Seller under this Agreement or any other Transaction Agreement, including any Earnout Amount; provided, further that any such amount shall not exceed the aggregate amount payable pursuant to Section 2.07.

Section 12.01. *Release.*

(a) Buyers acknowledge and agree that, except for the Parties and to the parties to the other Transaction Agreements, none of the Companies' Affiliates, Sellers' Affiliates or any of their respective Related Parties or other Representatives or Affiliates (collectively, the "**Seller Non-Recourse Parties**"), will have or be subject to any liability to Buyers or any of their Affiliates resulting from any claim based on, in respect of, or by reason of, this Agreement or the transactions contemplated hereby, regardless of the legal theory under which such liability may be sought to be imposed, whether at law, in equity or otherwise. The terms and provisions of this Section 12.01(a) are intended to be enforceable by any of the Seller Non-Recourse Parties, each of whom is an intended third-party beneficiary of this Section 12.01(a).

(b) The Sellers acknowledge and agree that, except for the Parties, none of Buyers' Related Parties or other Representatives or Affiliates (collectively, the "**Buyer Non-Recourse Parties**"), will have or be subject to any liability to the Sellers or any of their Affiliates resulting from any claim based on, in respect of, or by reason of, this Agreement or the transactions contemplated hereby (other than as may be expressly provided in any Transaction Agreement to which such Buyer Non-Recourse Party may be a party), regardless of the legal theory under which such liability may be sought to be imposed, whether at law, in equity or otherwise. The terms and provisions of this Section 12.01(b) are intended to be enforceable by any of the Buyer Non-Recourse Parties, each of whom is an intended third-party beneficiary of this Section 12.01(b).

(c) Effective as of the Closing (but only if the Closing actually occurs), except for any rights or obligations under this Agreement and the other Transaction Agreements, each Buyer, on behalf of itself and each of its Subsidiaries (including the Company Entities) and each of its and their respective past, present or future officers, directors, employees, agents, general or limited partners, managers, management companies, members, advisors, stockholders, equity holders, controlling Persons, other representatives or Affiliates, or any heir, executor, administrator, successor or assign of any of the foregoing (collectively, the "**Buyer Release Parties**"), hereby irrevocably and unconditionally releases and forever discharges the Sellers and their Affiliates (excluding the Company Entities), and each of the foregoing's respective past, present or future officers, directors, general or limited partners, managers, management companies, members, advisors, stockholders, equity holders, controlling Persons or Affiliates, or any heir, executor, administrator, successor or assign of any of the foregoing (collectively, the "**Seller Release Parties**") of and from any and all actions, causes of action, suits, proceedings, executions, judgments, duties, debts, dues, accounts, bonds, Contracts and covenants (whether express or implied), and claims and demands whatsoever whether in law or in equity (whether based upon contract, tort or otherwise and whether absolute or contingent, liquidated or unliquidated, known or unknown, determined, determinable or otherwise) which the Buyer Release Parties may have against each of the Seller Release Parties, now or in the future, in each case in respect of any cause, matter or thing relating to the Company Entities or any actions taken or failed to be taken by any of the Seller Release Parties in any capacity related to or affecting the Company Entities occurring or arising on or prior to the Closing Date, including any rights and claims, whether in law or in equity, relating to the H&A Equity, the businesses of the Company Entities or the operation thereof; provided that this Section 12.01(c) shall not operate to release any rights (v) under this Agreement or the Transaction Agreements, (w) a Person's confidentiality or other restrictive covenants, (x) to indemnification under or related to any indemnification or exculpation obligations set forth in the Company Entities' existing organizational documents, (y) under the Company Entities' existing directors' and officers' insurance policies and fiduciary liability insurance policies or (z) any claim of Fraud. The rights and claims waived and released by the Buyer Release Parties hereunder include claims for damages, indemnification, contribution and other rights of recovery arising out of or relating to any breach of contract, misrepresentation or breach of warranty, negligent misrepresentation, all other claims for breach of duty and all other claims arising under Applicable Law.

(d) Effective as of the Closing (but only if the Closing actually occurs), except for any rights or obligations under this Agreement and the other Transaction Agreements, each Seller, on behalf of itself and the Seller Release Parties, hereby irrevocably and unconditionally releases and forever discharges the Buyer Release Parties of and from any and all actions, causes of action, suits, proceedings, executions, judgments, duties, debts, dues, accounts, bonds, Contracts and covenants (whether express or implied), and claims and demands whatsoever whether in law or in equity (whether based upon contract, tort or otherwise and whether absolute or contingent, liquidated or unliquidated, known or unknown, determined, determinable or otherwise) which the Seller Release Parties may have against any Company Entity or the Buyer Release Parties, now or in the future, in each case in respect of any cause, matter or thing relating to the Company Entities or any actions taken or failed to be taken by any of the Buyer Release Parties occurring or arising on or prior to the Closing Date, including any rights and claims, whether in law or in equity, relating to the businesses of the Company Entities or the operation thereof; provided, that this Section 12.01(d) shall not operate to release any rights (v) under this Agreement or the Transaction Agreements, (w) to receive any employment compensation owed to such Person or any benefits owing to such Person under any Company Benefit Plan, (x) to indemnification under or related to any indemnification or exculpation obligations set forth in the Company Entities' existing organizational documents, (y) under the Company Entities' existing directors' and officers' insurance policies and fiduciary liability insurance policies or (z) to any claim of Fraud. The rights and claims waived and released by the Seller Release Parties hereunder include claims for damages, indemnification, contribution and other rights of recovery arising out of or relating to any breach of contract, misrepresentation or breach of warranty, negligent misrepresentation, all other claims for breach of duty and all other claims arising under Applicable Law. Each Seller acknowledges, on behalf of itself and the other Seller Release Parties, that such Seller, and the other Seller Release Parties may hereafter discover facts in addition to or different from those which such Seller or such other Seller Release Party now knows or believes to be true with respect to foregoing release, but it is such Seller's intention, on behalf of itself and the other Seller Release Parties, to fully and finally and forever settle and release any and all matters, disputes and differences, known or unknown, suspected and unsuspected, which do now exist, may exist or heretofore have existed between any Seller Release Party and any Buyer Release Party with respect to the foregoing release. In furtherance of this intention, such releases shall be and remain in effect as full and complete general releases notwithstanding the discovery or existence of any such additional or different facts; provided, that such discovery or existence of any such additional or different facts was not the result of Fraud or omissions as a result of negligence or bad faith. From and after the Closing, the Seller Release Parties (as determined after the Closing and as applicable), hereby waive any and all rights under Section 1542 of the Civil Code of California, and any similar Applicable Law of any other jurisdiction, which states in full (or otherwise in substance) as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY." The Seller Release Parties (as determined after the Closing and as applicable) hereby knowingly and willingly waive the provisions of Section 1542 of the Civil Code of California and any similar Applicable Law of any other jurisdiction that operates to bar the release of unknown claims, and acknowledges and agrees that this waiver is an essential and material term of this Agreement and this Section 12.01(d).

Section 12.02. *Notices*. A notice given under this Agreement: shall be sent to the attention of the person, and to the physical address or email address, given in this Section 12.02 (or such other physical address, email address or person as the Party may notify to the other in accordance with the provisions of this Section 12.02); and shall be delivered personally; sent by email (so long as receipt of such e-mail is requested and received); or sent by reputable international overnight courier.

The addresses for service of notice are:

if to Buyers or, following the Closing, any Company Entity, to:

Proficient Auto Logistics, Inc.
12276 San Jose Blvd., Suite 426
Jacksonville, Florida 32223
Attention: Brad Wright
Email: bwright@proautologistics.com

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

Willkie Farr & Gallagher LLP
300 North LaSalle Dr.
Chicago, Illinois 60654
Attention: Edward Best
Esther Chang
Email: ebest@willkie.com
eschang@willkie.com

if to the Sellers or, prior to the Closing, any Company Entity, to:

The Company Entities:
Hansen & Adkins, Inc.
3 Johns Canyon Rd
Rolling Hills, CA 90274
Attention: Steven Hansen
Email: hansteve101@gmail.com

The Seller Representative:
Steven Hansen
3 Johns Canyon Rd
Rolling Hills, CA 90274
Email: hansteve101@gmail.com

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

Koley Jessen P.C., L.L.O.
One Pacific Place, Suite 800
1125 South 103rd Street
Omaha, NE 68124-1079
Attention: Michael Hupp and Michael Keblesh
Email: Mike.Hupp@koleyjessen.com and Michael.Keblesh@koleyjessen.com

(c) A notice shall be effective upon receipt and shall be deemed to have been received: (i) if delivered personally or by courier, at the time of delivery; (ii) if sent by email, at the time of transmission; or (iii) provided that, in either case, where delivery is not within Working Hours in the place of receipt, then the notice shall be deemed to have been received when business next starts in the place of receipt.

Section 12.03. *Disclosure Schedule*. The Companies and the Sellers have set forth information on the Disclosure Schedule in a section thereof that corresponds to the section of this Agreement to which it relates. A matter set forth in one section of the Disclosure Schedule need not be set forth in any other section so long as its relevance to such other section of the Disclosure Schedule or section of this Agreement is reasonably apparent on the face of the information disclosed therein to the Person to which such disclosure is being made. The Parties acknowledge and agree that (a) the Disclosure Schedule may include certain items and information solely for informational purposes for the convenience of Buyers, (b) the disclosure by the Sellers or the Companies of any matter in the Disclosure Schedule shall not be deemed to constitute an acknowledgment by the Sellers or the Companies that the matter is required to be disclosed by the terms of this Agreement or that the matter is material or outside the ordinary course of business or otherwise establish any standard of materiality and (c) the Disclosure Schedule and the information and statements contained therein are not intended to constitute, and shall not be construed as constituting, representations or warranties of the Companies except as and to the extent provided in this Agreement.

Section 12.04. *Successors and Assigns*. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns; provided, that no Party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other Parties; provided, further, that Buyers may assign without the prior written consent of any other Party any of its rights, benefits or obligations under this Agreement to an Affiliate (it being understood that, in each case, no such assignment shall relieve Buyers of their obligations under this Agreement).

Section 12.05. *Entire Agreement*. This Agreement, the Confidentiality Agreements and the other Transaction Agreements constitute the entire agreement among the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, both oral and written, among the Parties with respect to the subject matter hereof and thereof.

Section 12.06. *Amendment and Waiver.*

(a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by Buyers and the Sellers, or in the case of a waiver, by the Party against whom the waiver is to be effective.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder shall impair such right or remedy or operate or be construed as a waiver or variation thereof or preclude its exercise at any subsequent time nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(c) Except as set forth in Section 12.01(c), the rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 12.07. *Costs*. Except as otherwise expressly provided herein, all costs and expenses incurred in connection with this Agreement shall be paid by the Party (including its Affiliates) incurring such cost or expense.

Section 12.08. *Severability*. Each term, provision, covenant and restriction of this Agreement is severable. If any such term, provision, covenant or restriction is held by a court of competent jurisdiction to be invalid, void or unenforceable, (a) it shall have no effect to the extent of such holding and the Parties shall use all reasonable efforts to replace it in that respect with a valid and enforceable substitute term, provision, covenant or restriction (as applicable), the effect of which is as close to its intended effect as possible; and (b) the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party.

Section 12.09. *Third Party Rights*. Except as expressly set forth herein, no provision of this Agreement is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person, other than the Parties and their respective successors and assigns.

Section 12.10. *Counterparts; Effectiveness*. This Agreement may be signed in any number of counterparts, and by each Party on separate counterparts. Each such counterpart shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Parties. Until and unless each Party has received a counterpart hereof signed by the other Parties, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). Delivery of a counterpart hereof by email attachment shall be an effective mode of delivery.

Section 12.11. *Jurisdiction.* The Parties agree that, except as set forth in Section 2.06, any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought exclusively in the United States District Court for the Southern District of New York or any New York State court sitting in New York City, so long as one of such courts shall have subject matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of New York, and each of the Parties hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 12.02 shall be deemed effective service of process on such Party.

Section 12.12. *Governing Law*. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflicts of law rules of such state. Notwithstanding anything to the contrary contained in this Agreement, each of the Parties agrees that this Agreement shall be exclusively governed by, and construed in accordance with, the laws of the State of New York, without regard to the conflict of law rules of such state.

Section 12.13. *Specific Performance*. The Parties agree that irreparable damage would occur, and that the Parties would not have any adequate remedy at law, in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and the other Transaction Agreements and to specifically enforce the terms and provisions hereof and thereof, without proof of actual damages or otherwise, in addition to any other remedy to which any Party is entitled at law or in equity. Each Party agrees to waive any requirement for the securing or posting of any bond in connection with such remedy. The Parties further agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to law or inequitable for any reason, nor to assert that a remedy of monetary damages would provide an adequate remedy.

Section 12.14. *Transferred Personal Information*. Each Party agrees that the information about an identifiable individual disclosed or conveyed from one Party to the other (the "**Transferred Personal Information**") is necessary to determine whether to proceed with and to carry out and complete the transactions contemplated hereby. Each Party agrees to comply with Applicable Law as it relates to the Transferred Personal Information. Without limiting the generality of the foregoing, the Parties agree that: (a) up to and including the completion of the transactions contemplated hereby, the collection, use and disclosure of Transferred Personal Information is restricted to those purposes that relate to the transactions contemplated hereby; and (b) following the completion of the transactions contemplated hereby: (i) the use and disclosure of the Transferred Personal Information will be restricted to those purposes permitted or authorized by Applicable Laws; and (ii) where required by Applicable Law, the Parties will promptly notify the individuals to whom the Transferred Personal Information relates that the transactions contemplated hereby have taken place and that the Transferred Personal Information has been disclosed.

Section 12.15. *Waiver of Jury Trial*. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (INCLUDING THE FINANCING).

[*Signature page follows*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized representatives as of the day and year first above written.

US BUYER

PROFICIENT SERVICES, INC.

By: /s/ Amy Rice
Name: Amy Rice
Title: President and COO

CANADA BUYER

H&A CN ACQUISITION, LTD.

By: /s/ Amy Rice
Name: Name:
Title: Title:

COMPANIES

HANSEN & ADKINS AUTO TRANSPORT, INC.

By: /s/ Steven Hansen
Name: Steven Hansen
Title: VP, Treasurer, Secretary

HANSEN & ADKINS AUTO LOGISTICS, INC.

By: /s/ Steven Hansen
Name: Steven Hansen
Title: President

ROYAL TRUCK LEASING, LLC

By: /s/ Steven Hansen
Name: Steven Hansen
Title: Manager and Member

HANSEN & ADKINS CANADA LTD.

By: /s/ Steven Hansen
Name: Steven Hansen
Title: Vice President

SELLERS

STEVEN HANSEN SEPARATE PROPERTY TRUST, DATED FEBRUARY 28, 2022

By: /s/ Steven Hansen
Name: Steven Hansen
Title: Trustee

THE LOUIE ADKINS 2024 TRUST, DATED JULY 25, 2024

By: /s/ Louie Adkins
Name: Louie Adkins
Title: Trustee

STEVEN HANSEN

By: /s/ Steven Hansen

LOUIE ADKINS

By: /s/ Louie Adkins

HANSEN & ADKINS, INC.

By: /s/ Steven Hansen
Name: Steven Hansen
Title: Executive Vice President

ROYAL HOLDCO, LLC

By: /s/ Steven Hansen
Name: Steven Hansen
Title: Manager

THE SELLER REPRESENTATIVE

By: /s/ Steven Hansen
Name: Steven Hansen

Exhibit 4.1

PROFICIENT AUTO LOGISTICS, INC.

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION

as Trustee

INDENTURE

Dated as of August 13, 2026

5.500% Convertible Senior Notes due 2033

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INDENTURE, dated as of August 13, 2026, between Proficient Auto Logistics, Inc., a Delaware corporation, as issuer (the "**Company**"), and U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**").

Each party to this Indenture (as defined below) agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Company's 5.500% Convertible Senior Notes due 2033 (the "**Notes**").

ARTICLE I.
DEFINITIONS; RULES OF CONSTRUCTION

SECTION 1.01. DEFINITIONS.

"**Additional Interest**" means any interest that accrues on any Note pursuant to **Section 3.04**.

"**Affiliate**" has the meaning set forth in Rule 144 as in effect on the Issue Date.

"**Authorized Denomination**" means, with respect to a Note, a principal amount thereof equal to $1,000 or any integral multiple of $1,000 in excess thereof.

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

"**Bid Solicitation Agent**" means the Person who is required to obtain bids for the Trading Price in accordance with **Section 5.01(C)(i)(2)** and the definition of "Trading Price." The initial Bid Solicitation Agent on the Issue Date will be the Company; *provided*, *however*, that the Company may appoint any other Person (including any of the Company's Subsidiaries) to be the Bid Solicitation Agent at any time after the Issue Date without prior notice.

"**Board of Directors**" means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

"**Business Day**" means any day other than a Saturday, a Sunday or any day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

"**Capital Shares**" of any Person means any and all shares of, interests in, rights to purchase, warrants or options for, participations in, or other equivalents of, in each case however designated, the equity of such Person, but excluding any debt securities convertible into such equity.

"**Cleanup Redemption**" means the repurchase of any Note by the Company pursuant to **Section 4.03(C)**.

"**Close of Business**" means 5:00 p.m., New York City time.

"**Common Shares**" means the shares of common stock, par value $0.01 per share, of the Company, subject to **Section 5.09**.

"**Company**" means the Person named as such in the first paragraph of this Indenture and, subject to **Article 6**, its successors and assigns.

"**Company Order**" means a written request or order signed on behalf of the Company by one (1) of its Officers and delivered to the Trustee.

"**Conversion**" means, with respect to any Note, the conversion of such Note pursuant to **Article 5** into Conversion Consideration. The terms "Convert," "Converted," "Convertible," "Converting" and similar capitalized terms have meanings correlative to the foregoing.

"**Conversion Date**" means, with respect to a Note, the first Business Day on which the requirements set forth in **Section 5.02(A)** to Convert such Note are satisfied, subject to **Section 5.03(C)**.

"**Conversion Price**" means, as of any time, an amount equal to (A) one thousand dollars ($1,000) *divided by* (B) the Conversion Rate in effect at such time.

"**Conversion Rate**" initially means 153.7870 Common Shares per $1,000 principal amount of Notes; *provided*, *however*, that the Conversion Rate is subject to adjustment pursuant to **Article 5**; *provided*, *further*, that whenever this Indenture refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

"**Conversion Share**" means any Common Share issued or issuable upon Conversion of any Note.

"**Daily Cash Amount**" means, with respect to any VWAP Trading Day, the lesser of (A) the applicable Daily Maximum Cash Amount; and (B) the Daily Conversion Value for such VWAP Trading Day.

"**Daily Conversion Value**" means, with respect to any VWAP Trading Day, one-sixtieth (1/60th) of the product of (A) the Conversion Rate on such VWAP Trading Day; and (B) the Daily VWAP per Common Share on such VWAP Trading Day.

"**Daily Maximum Cash Amount**" means, with respect to the Conversion of any Note, the quotient obtained by dividing (A) the Specified Dollar Amount applicable to such Conversion by (B) sixty (60).

"**Daily Share Amount**" means, with respect to any VWAP Trading Day, the quotient obtained by dividing (A) the excess, if any, of the Daily Conversion Value for such VWAP Trading Day over the applicable Daily Maximum Cash Amount by (B) the Daily VWAP for such VWAP Trading Day. For the avoidance of doubt, the Daily Share Amount will be zero for such VWAP Trading Day if such Daily Conversion Value does not exceed such Daily Maximum Cash Amount.

"**Daily VWAP**" means, for any VWAP Trading Day, the per share volume-weighted average price of the Common Shares as displayed under the heading "Bloomberg VWAP" on Bloomberg page "PAL <EQUITY> AQR" (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or, if such volume-weighted average price is unavailable, the market value of one Common Share on such VWAP Trading Day, determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company). The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

"**De-Legending Deadline Date**" means, with respect to any Note, the fifteenth (15th) day after the Free Trade Date of such Note; *provided*, *however*, that if the De-Legending Deadline Date determined as aforesaid would be after a Regular Record Date and before the fifth (5th) Business Day immediately after the next Interest Payment Date, then the De-Legending Deadline Date for such Note will instead be the fifth (5th) Business Day immediately after such Interest Payment Date.

"**Default**" means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

"**Default Settlement Method**" means Physical Settlement; *provided*, *however*, that (x) subject to **Section 5.03(A)(iii)**, the Company may, from time to time, change the Default Settlement Method by sending notice of the new Default Settlement Method to the Holders, the Trustee and the Conversion Agent; and (y) the Default Settlement Method will be subject to **Section 5.03(A)(ii)**.

"**Depositary**" means The Depository Trust Company or its successor.

"**Depositary Participant**" means any member of, or participant in, the Depositary.

"**Depositary Procedures**" means, with respect to any Conversion, transfer, exchange or other transaction involving a Global Note or any beneficial interest therein, the rules and procedures of the Depositary applicable to such Conversion, transfer, exchange or transaction.

"**Ex-Dividend Date**" means, with respect to an issuance, dividend or distribution on the Common Shares, the first date on which Common Shares trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Common Shares under a separate ticker symbol or CUSIP number will not be considered "regular way" for this purpose.

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended.

"**Exempted Fundamental Change**" means any Fundamental Change with respect to which, in accordance with **Section 4.02(I)**, the Company does not offer to repurchase any Notes.

"**Free Trade Date**" means, with respect to any Note, the date that is one (1) year after the Last Original Issue Date of such Note.

"**Freely Tradable**" means, with respect to any Note, that such Note would be eligible to be offered, sold or otherwise transferred pursuant to Rule 144 or otherwise if held by a Person that is not an Affiliate of the Company, and that has not been an Affiliate of the Company during the immediately preceding three (3) months, without any requirements as to volume, manner of sale, availability of current public information or notice under the Securities Act (except that, during the six (6) month period beginning on, and including, the date that is six (6) months after the Last Original Issue Date of such Note, any such requirement as to the availability of current public information will be disregarded if the same is satisfied at that time); *provided*, *however*, that from and after the De-Legending Deadline Date of such Note, such Note will not be "Freely Tradable" unless such Note (x) is not identified by a "restricted" CUSIP or ISIN number; and (y) is not represented by any certificate that bears the Restricted Note Legend. For the avoidance of doubt, whether a Note is deemed to be identified by a "restricted" CUSIP or ISIN number or to bear the Restricted Note Legend is subject to **Section 2.12**.

"**Fundamental Change**" means any of the following events:

(A) a "person" or "group" (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or their respective employee benefit plans, files any report with the SEC indicating that such person or group has become the direct or indirect "beneficial owner" (as defined below) of Common Shares representing more than fifty percent (50%) of the voting power of all of the Common Shares;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company's Wholly Owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Common Shares are exchanged for, converted into, acquired for, or constitute solely the right to receive, other securities, cash or other property; *provided*, *however*, that any merger, consolidation, share exchange or combination of the Company pursuant to which the Persons that directly or indirectly "beneficially owned" (as defined below) all classes of the Company's common equity immediately before such transaction directly or indirectly "beneficially own," immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)**; or (C) the Company's shareholders approve any plan or proposal for the liquidation or dissolution of the Company; *provided*, *however*, that a transaction or event described in **clause (A)** or **(B)** above will not constitute a Fundamental Change if at least ninety percent (90%) of the consideration received or to be received by the holders of Common Shares (excluding cash payments for fractional shares or pursuant to dissenters' rights), in connection with such transaction or event, consists of shares of common stock or other corporate common equity interests listed (or depositary receipts representing shares of common stock or other corporate common equity interests, which depositary receipts are listed) on any of the New York Stock Exchange, the Nasdaq Global Market or the Nasdaq Global Select Market (or any of their respective successors), or that will be so listed when issued or exchanged in connection with such transaction or event, and such transaction or event constitutes a Common Share Change Event whose Reference Property consists of such consideration.

For the purposes of this definition, (x) any transaction or event described in both **clause (A)** and in **clause (B)(i)** or **(ii)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso); and (y) whether a Person is a "**beneficial owner**," whether shares are "**beneficially owned**," and percentage beneficial ownership, will be determined in accordance with Rule 13d-3 under the Exchange Act.

"**Fundamental Change Repurchase Date**" means the date fixed for the repurchase of any Notes by the Company pursuant to a Repurchase Upon Fundamental Change.

"**Fundamental Change Repurchase Notice**" means a notice (including a notice substantially in the form of the "Fundamental Change Repurchase Notice" set forth in **Exhibit A**) containing the information, or otherwise complying with the requirements, set forth in **Section 4.02(F)(i)** and **Section 4.02(F)(ii)**.

"**Fundamental Change Repurchase Price**" means the cash price payable by the Company to repurchase any Note upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 4.02(D)**.

"**Global Note**" means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Depositary or its nominee, duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee, as custodian for the Depositary.

"**Global Note Legend**" means a legend substantially in the form set forth in **Exhibit B-2**.

"**Holder**" means a person in whose name a Note is registered on the Registrar's books.

"**Indenture**" means this Indenture, as amended or supplemented from time to time.

"**Interest Payment Date**" means, with respect to a Note, each February 15 and August 15 of each year, commencing on February 15, 2027 (or commencing on such other date specified in the certificate representing such Note). For the avoidance of doubt, the Maturity Date is an Interest Payment Date.

"**Issue Date**" means August 13, 2026.

"**Last Original Issue Date**" means (A) with respect to any Initial Notes issued on the Issue Date pursuant to the Subscription Agreements, and any Notes issued in exchange therefor or in substitution thereof, the Issue Date; and (B) with respect to any Notes issued pursuant to **Section 2.03(B)**, and any Notes issued in exchange therefor or in substitution thereof, either (i) the later of (x) the date such Notes are originally issued and (y) the last date any Notes are originally issued as part of the same offering pursuant to the exercise of an option granted to the initial purchaser(s) of such Notes to purchase additional Notes; or (ii) such other date as is specified in an Officer's Certificate delivered to the Trustee before the original issuance of such Notes.

"**Last Reported Sale Price**" of the Common Shares for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per share) of Common Shares on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Shares are then listed. If the Common Shares are not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per Common Share on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Common Shares are not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per Common Share on such Trading Day from a nationally recognized independent investment banking firm selected by the Company. Neither the Trustee nor the Conversion Agent will have any duty to determine the Last Reported Sale Price.

"**Make-Whole Fundamental Change**" means (A) either (i) a Fundamental Change (determined after giving effect to the proviso immediately after **clause (C)** of the definition thereof, but without regard to the proviso to **clause (B)(ii)** of such definition); or (ii) a Termination of Trading; or (B) the sending of a Redemption Notice pursuant to **Section 4.03(G)**; *provided*, *however*, that the sending of a Redemption Notice for a Provisional Redemption will constitute a Make-Whole Fundamental Change only with respect to the Notes called (or deemed to be called pursuant to **Section 4.03(J)**) for Provisional Redemption pursuant to such Redemption Notice and not with respect to any other Notes.

"**Make-Whole Fundamental Change Conversion Period**" has the following meaning:

(A) in the case of a Make-Whole Fundamental Change pursuant to **clause (A)** of the definition thereof, the period from, and including, the Make-Whole Fundamental Change Effective Date of such Make-Whole Fundamental Change to, and including, the thirty fifth (35th) Trading Day after such Make-Whole Fundamental Change Effective Date (or, if such Make-Whole Fundamental Change also constitutes a Fundamental Change (other than an Exempted Fundamental Change), or if such Make-Whole Fundamental Change is a Termination of Trading in connection with which the Company has elected to offer to repurchase the Notes as set forth in **Section 7.03**, to, but excluding, the related Fundamental Change Repurchase Date (including a Fundamental Change Repurchase Date that the Company has specified in connection with such an election));

(B) in the case of a Make-Whole Fundamental Change pursuant to **clause (B)** of the definition thereof, the period from, and including, the Redemption Notice Date for the related Redemption to, and including, the second (2nd) Business Day immediately before the related Redemption Date;

provided, *however*, that if the Conversion Date for the Conversion of a Note that has been called (or deemed to be called pursuant to **Section 4.03(J)**) for Redemption occurs during the Make-Whole Fundamental Change Conversion Period for both a Make-Whole Fundamental Change occurring pursuant to **clause (A)** of the definition of "Make-Whole Fundamental Change" and a Make-Whole Fundamental Change resulting from such Redemption pursuant to **clause (B)** of such definition, then, notwithstanding anything to the contrary in **Section 5.07**, solely for purposes of such Conversion, (x) such Conversion Date will be deemed to occur solely during the Make-Whole Fundamental Change Conversion Period for the Make-Whole Fundamental Change with the earlier Make-Whole Fundamental Change Effective Date; and (y) the Make-Whole Fundamental Change with the later Make-Whole Fundamental Change Effective Date will be deemed not to have occurred.

"**Make-Whole Fundamental Change Effective Date**" means (A) with respect to a Make-Whole Fundamental Change pursuant to **clause (A)** of the definition thereof, the date on which such Make-Whole Fundamental Change occurs or becomes effective; and (B) with respect to a Make-Whole Fundamental Change pursuant to **clause (B)** of the definition thereof, the applicable Redemption Notice Date.

"**Market Disruption Event**" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common Shares are listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Shares or in any options contracts or futures contracts relating to the Common Shares.

"**Maturity Date**" means August 15, 2033.

"**Non-Affiliate Legend**" means a legend substantially in the form set forth in **Exhibit B-3**.

"**Note Agent**" means any Registrar, Paying Agent or Conversion Agent.

"**Notes**" means the 5.500% Convertible Senior Notes due 2033 issued by the Company pursuant to this Indenture.

"**Observation Period**" means, with respect to any Note to be Converted, (A) subject to **clause (B)** below, if the Conversion Date for such Note occurs on or before May 15, 2033, the sixty (60) consecutive VWAP Trading Days beginning on, and including, the third (3rd) VWAP Trading Day immediately after such Conversion Date; (B) if such Conversion Date occurs on or after the date the Company has sent a Redemption Notice calling all or any Notes for Redemption pursuant to **Section 4.03(G)** and on or before the second (2nd) Business Day before the related Redemption Date, the sixty (60) consecutive VWAP Trading Days beginning on, and including, the sixty-first (61st) Scheduled Trading Day immediately before such Redemption Date; and (C) subject to **clause (B)** above, if such Conversion Date occurs after May 15, 2033, the sixty (60) consecutive VWAP Trading Days beginning on, and including, the sixty-first (61st) Scheduled Trading Day immediately before the Maturity Date.

"**Officer**" means the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of the Company.

"**Officer's Certificate**" means a certificate that is signed on behalf of the Company by one (1) of its Officers and that meets the requirements of **Section 11.03**.

"**Open of Business**" means 9:00 a.m., New York City time.

"**Opinion of Counsel**" means an opinion, from legal counsel (including an employee of, or counsel to, the Company or any of its Subsidiaries) reasonably acceptable to the Trustee, that meets the requirements of **Section 11.03**, subject to customary qualifications and exclusions.

"**Person**" or "**person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate "person" under this Indenture.

"**Physical Note**" means a Note (other than a Global Note) that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

"**Provisional Redemption**" means the repurchase of any Note by the Company pursuant to **Section 4.03(B)**.

"**Redemption**" means a Provisional Redemption or a Cleanup Redemption.

"**Redemption Date**" means the date fixed, pursuant to **Section 4.03(E)**, for the settlement of the repurchase of any Notes by the Company pursuant to a Redemption.

"**Redemption Notice Date**" means, with respect to a Redemption, the date on which the Company sends the Redemption Notice for such Redemption pursuant to **Section 4.03(G)**.

"**Redemption Price**" means the cash price payable by the Company to redeem any Note upon its Redemption, calculated pursuant to **Section 4.03(F)**.

"**Regular Record Date**" has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on February 15, the immediately preceding February 1 (whether or not a Business Day); and (B) if such Interest Payment Date occurs on August 15, the immediately preceding August 1 (whether or not a Business Day).

"**Repurchase Upon Fundamental Change**" means the repurchase of any Note by the Company pursuant to **Section 4.02**.

"**Responsible Officer**" means (A) any officer within the corporate trust group of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of such officers; and (B) with respect to a particular corporate trust matter relating to this Indenture, any other officer to whom such matter is referred because of his or her knowledge of, and familiarity with, the particular subject, and who, in each case, has direct responsibility for the administration of this Indenture.

"**Restricted Note Legend**" means a legend substantially in the form set forth in **Exhibit B-1**.

"**Restricted Stock Legend**" means, with respect to any Conversion Share, a legend substantially to the effect that the offer and sale of such Conversion Share have not been registered under the Securities Act and that such Conversion Share cannot be sold or otherwise transferred except pursuant to a transaction that is registered under the Securities Act or that is exempt from, or not subject to, the registration requirements of the Securities Act.

"**Rule 144**" means Rule 144 under the Securities Act (or any successor rule thereto), as the same may be amended from time to time.

"**Rule 144A**" means Rule 144A under the Securities Act (or any successor rule thereto), as the same may be amended from time to time.

"**Scheduled Trading Day**" means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded. If the Common Shares are not so listed or traded, then "Scheduled Trading Day" means a Business Day.

"**SEC**" means the U.S. Securities and Exchange Commission.

"**Securities Act**" means the U.S. Securities Act of 1933, as amended.

"**Security**" means any Note or Conversion Share.

"**Settlement Method**" means Cash Settlement, Physical Settlement or Combination Settlement.

"**Share Price**" has the following meaning for any Make-Whole Fundamental Change: (A) if the holders of Common Shares receive only cash in consideration for their Common Shares in such Make-Whole Fundamental Change and such Make-Whole Fundamental Change is pursuant to **clause (B)** of the definition of "Fundamental Change," then the Share Price is the amount of cash paid per Common Share in such Make-Whole Fundamental Change; and (B) in all other cases, the Share Price is the average of the Last Reported Sale Prices per Common Share for the five (5) consecutive Trading Days ending on, and including, the Trading Day immediately before the Make-Whole Fundamental Change Effective Date of such Make-Whole Fundamental Change.

"**Significant Subsidiary**" means, with respect to any Person, any Subsidiary of such Person that constitutes a "significant subsidiary" (as defined in Rule 1-02(w) of Regulation S-X under the Exchange Act) of such Person; *provided*, *however*, that, if a Subsidiary meets the criteria of clause (1)(iii), but not clause (1)(i) or (1)(ii), of the definition of "significant subsidiary" in Rule 1-02(w) (or, if applicable, the respective successor clauses to the aforementioned clauses), then such Subsidiary will be deemed not to be a Significant Subsidiary unless such Subsidiary's income from continuing operations before income taxes, exclusive of amounts attributable to any non-controlling interests, for the last completed fiscal year before the date of determination exceeds twenty five million dollars ($25,000,000).

"**Special Interest**" means any interest that accrues on any Note pursuant to **Section 7.04**.

"**Specified Dollar Amount**" means, with respect to the Conversion of a Note to which Combination Settlement applies, the maximum cash amount per $1,000 principal amount of such Note deliverable upon such Conversion (excluding cash in lieu of any fractional Common Share).

"**Subscription Agreements**" means the several subscription agreements, each dated as of August 10, 2026, between the Company and an investor party thereto, pursuant to which each such investor agreed to purchase Notes from the Company.

"**Subsidiary**" means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Capital Shares entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or shareholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

"**Tax**" means any tax, duty, levy, impost, assessment or other governmental charge (including penalties and interest and other similar liabilities related thereto).

A "**Termination of Trading**" will be deemed to occur if the Common Shares cease to be listed on any of the New York Stock Exchange, the Nasdaq Global Market or the Nasdaq Global Select Market (or any of their respective successors).

"**Trading Day**" means any day on which (A) trading in the Common Shares generally occurs on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded; and (B) there is no Market Disruption Event. If the Common Shares are not so listed or traded, then "Trading Day" means a Business Day.

"**Trading Price**" of the Notes on any Trading Day means the average of the secondary market bid quotations, expressed as a cash amount per $1,000 principal amount of Notes, obtained by the Bid Solicitation Agent for three million dollars ($3,000,000) (or such lesser amount as may then be outstanding) in principal amount of Notes at approximately 3:30 p.m., New York City time, on such Trading Day from three (3) nationally recognized independent securities dealers selected by the Company; *provided*, *however*, that, if three (3) such bids cannot reasonably be obtained by the Bid Solicitation Agent but two (2) such bids are obtained, then the average of the two (2) bids will be used, and if only one (1) such bid can reasonably be obtained by the Bid Solicitation Agent, then that one (1) bid will be used. If, on any Trading Day, (A) the Bid Solicitation Agent cannot reasonably obtain at least one (1) bid for three million dollars ($3,000,000) (or such lesser amount as may then be outstanding) in principal amount of Notes from a nationally recognized independent securities dealer; (B) the Company is not acting as the Bid Solicitation Agent and the Company fails to instruct the Bid Solicitation Agent to obtain bids when required; or (C) the Bid Solicitation Agent fails to solicit bids when required, then, in each case, the Trading Price per $1,000 principal amount of Notes on such Trading Day will be deemed to be less than ninety eight percent (98%) of the product of the Last Reported Sale Price per Common Share on such Trading Day and the Conversion Rate on such Trading Day.

"**Transfer-Restricted Security**" means any Security that constitutes a "restricted security" (as defined in Rule 144); *provided*, *however*, that such Security will cease to be a Transfer-Restricted Security upon the earliest to occur of the following events:

(A) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to a registration statement that was effective under the Securities Act at the time of such sale or transfer;

(B) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to an available exemption (including Rule 144) from the registration and prospectus-delivery requirements of, or in a transaction not subject to, the Securities Act and, immediately after such sale or transfer, such Security ceases to constitute a "restricted security" (as defined in Rule 144); and

(C) such Security is eligible for resale, by a Person that is not an Affiliate of the Company and that has not been an Affiliate of the Company during the immediately preceding three (3) months, pursuant to Rule 144 without any limitations thereunder as to volume, manner of sale, availability of current public information or notice.

The Trustee is under no obligation to determine whether any Security is a Transfer-Restricted Security and may conclusively rely on an Officer's Certificate with respect thereto.

"**Trust Indenture Act**" means the U.S. Trust Indenture Act of 1939, as amended.

"**Trustee**" means the Person named as such in the first paragraph of this Indenture until a successor replaces it in accordance with the provisions of this Indenture and, thereafter, means such successor.

"**VWAP Market Disruption Event**" means, with respect to any date, (A) the failure by the principal U.S. national or regional securities exchange on which the Common Shares are then listed, or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, the principal other market on which the Common Shares are then traded, to open for trading during its regular trading session on such date; or (B) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Shares or in any options contracts or futures contracts relating to the Common Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

"**VWAP Trading Day**" means a day on which (A) there is no VWAP Market Disruption Event; and (B) trading in the Common Shares generally occurs on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded. If the Common Shares are not so listed or traded, then "VWAP Trading Day" means a Business Day.

"**Wholly Owned Subsidiary**" of a Person means any Subsidiary of such Person all of the outstanding Capital Shares or other ownership interests of which (other than directors' qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

SECTION 1.02. OTHER DEFINITIONS

Term	**Defined in Section**
"**Additional Shares**"	**5.07(A)**
"**Affiliated Parties**"	**5.10(A)**
"**Business Combination Event**"	**6.01(A)**
"**Cash Settlement**"	**5.03(A)**
"**Combination Settlement**"	**5.03(A)**
"**Common Share Change Event**"	**5.09(A)**
"**Conversion Agent**"	**2.06(A)**
"**Conversion Consideration**"	**5.03(B)**
"**Default Interest**"	**2.05(B)**
"**Defaulted Amount**"	**2.05(B)**
"**Deferred Additional Interest**"	**3.04(C)(i)**
"**Deferred Additional Interest Demand Request**"	**3.04(C)(i)**
"**Event of Default**"	**7.01(A)**
"**Expiration Date**"	**5.05(A)(v)**
"**Expiration Time**"	**5.05(A)(v)**
"**Fundamental Change Notice**"	**4.02(E)**
"**Fundamental Change Repurchase Right**"	**4.02(A)**
"**Initial Notes**"	**2.03(A)**
"**Measurement Period**"	**5.01(C)(i)(2)**
"**Notice of Election to Pay Deferred Additional Interest**"	**3.04(C)(i)**
"**Ownership Limitation**"	**5.10(A)**
"**Paying Agent**"	**2.06(A)**
"**Physical Settlement**"	**5.03(A)**

"**Pricing Term Sheet**"	**8.01(I)**
"**Redemption Notice**"	**4.03(G)**
"**Reference Property**"	**5.09(A)**
"**Reference Property Unit**"	**5.09(A)**
"**Register**"	**2.06(B)**
"**Registrar**"	**2.06(A)**
"**Reporting Event of Default**"	**7.04(A)**
"**Specified Courts**"	**11.07**
"**Spin-Off**"	**5.05(A)(iii)(2)**
"**Spin-Off Valuation Period**"	**5.05(A)(iii)(2)**
"**Stated Interest**"	**2.05(A)**
"**Successor Entity**"	**6.01(A)**
"**Successor Person**"	**5.09(A)**
"**Tender/Exchange Offer Valuation Period**"	**5.05(A)(v)**
"**Termination of Trading Event of Default**"	**7.03**
"**Trading Price Condition**"	**5.01(C)(i)(2)**

SECTION 1.03. RULES OF CONSTRUCTION.

For purposes of this Indenture:

(A) "or" is not exclusive;

(B) "including" means "including without limitation";

(C) "will" expresses a command;

(D) the "average" of a set of numerical values refers to the arithmetic average of such numerical values;

(E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

(F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;

(G) "herein," "hereof" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision of this Indenture, unless the context requires otherwise;

(H) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;

(I) the exhibits, schedules and other attachments to this Indenture are deemed to form part of this Indenture; and

(J) the term "**interest**," when used with respect to a Note, includes any Default Interest, Additional Interest (including, if applicable, Deferred Additional Interest and interest on such Deferred Additional Interest) and Special Interest, unless the context requires otherwise.

ARTICLE II.
THE NOTES

SECTION 2.01. FORM, DATING AND DENOMINATIONS.

The Notes and the Trustee's certificate of authentication will be substantially in the form set forth in **Exhibit A**. The Notes will bear the legends required by **Section 2.09** and may bear notations, legends or endorsements required by law, stock exchange rule or usage or the Depositary. Each Note will be dated as of the date of its authentication.

Except to the extent otherwise provided in a Company Order delivered to the Trustee in connection with the issuance and authentication thereof, the Notes will be issued initially in the form of one or more Global Notes. Global Notes may be exchanged for Physical Notes, and Physical Notes may be exchanged for Global Notes, only as provided in **Section 2.10**.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of this Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, agree to such terms and to be bound thereby; *provided*, *however*, that, to the extent that any provision of any Note conflicts with the provisions of this Indenture, the provisions of this Indenture will control for purposes of this Indenture and such Note.

SECTION 2.02. EXECUTION, AUTHENTICATION AND DELIVERY.

(A) *Due Execution by the Company*. At least one (1) duly authorized Officer will sign the Notes on behalf of the Company by manual, electronic or facsimile signature. A Note's validity will not be affected by the failure of any Officer whose signature is on any Note to hold, at the time such Note is authenticated, the same or any other office at the Company.

(B) *Authentication by the Trustee and Delivery*.

(i) No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

(ii) The Trustee will cause an authorized signatory of the Trustee (or a duly appointed authenticating agent) to manually sign the certificate of authentication of a Note only if (1) the Company delivers such Note to the Trustee; (2) such Note is executed by the Company in accordance with **Section 2.02(A)**; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such Note; and (b) sets forth the name of the Holder of such Note and the date as of which such Note is to be authenticated. If such Company Order also requests the Trustee to deliver such Note to any Holder or to the Depositary, then the Trustee will promptly deliver such Note in accordance with such Company Order.

(iii) The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. A duly appointed authenticating agent may authenticate Notes whenever the Trustee may do so under this Indenture, and a Note authenticated as provided in this Indenture by such an agent will be deemed, for purposes of this Indenture, to be authenticated by the Trustee. Each duly appointed authenticating agent will have the same rights to deal with the Company as the Trustee would have if it were performing the duties that the authenticating agent was validly appointed to undertake.

SECTION 2.03. INITIAL NOTES AND ADDITIONAL NOTES.

(A) *Initial Notes*. On the Issue Date, there will be originally issued Seventy-Five Million dollars ($75,000,000) aggregate principal amount of Notes, subject to the provisions of this Indenture (including **Section 2.02**). Notes issued pursuant to this **Section 2.03(A)**, and any Notes issued in exchange therefor or in substitution thereof, are referred to in this Indenture as the "**Initial Notes**."

(B) *Additional Notes*. Without the consent of any Holder, the Company may, subject to the provisions of this Indenture (including **Section 2.02**), originally issue additional Notes with the same terms as the Initial Notes (except, to the extent applicable, with respect to the date as of which interest begins to accrue on such additional Notes and the first Interest Payment Date and the Last Original Issue Date of such additional Notes), which additional Notes will, subject to the foregoing, be considered to be part of the same series of, and rank equally and ratably with all other, Notes issued under this Indenture; *provided*, *however*, that if any such additional Notes (and any Notes that are resold after such Notes have been purchased or otherwise acquired by the Company or its Subsidiaries) are not fungible with other Notes issued under this Indenture for purposes of U.S. federal income tax, U.S. federal securities laws or, if applicable, the Depositary Procedures, then such additional or resold Notes will be identified by a separate CUSIP number or by no CUSIP number.

SECTION 2.04. METHOD OF PAYMENT.

(A) *Global Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, interest on, and any cash Conversion Consideration for, any Global Note to the Depositary by wire transfer of immediately available funds no later than the time the same is due as provided in this Indenture.

(B) *Physical Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, interest on, and any cash Conversion Consideration for, any Physical Note no later than the time the same is due as provided in this Indenture as follows: (i) if the principal amount of such Physical Note is at least five million dollars ($5,000,000) (or such lower amount as the Company may choose in its sole and absolute discretion) and the Holder of such Physical Note entitled to such payment has delivered to the Paying Agent or the Trustee, no later than the time set forth in the immediately following sentence, a written request that the Company make such payment by wire transfer to an account of such Holder within the United States, by wire transfer of immediately available funds to such account; and (ii) in all other cases, by check mailed to the address of the Holder of such Physical Note entitled to such payment as set forth in the Register. To be timely, such written request must be so delivered no later than the Close of Business on the following date: (x) with respect to the payment of any interest due on an Interest Payment Date, the immediately preceding Regular Record Date; (y) with respect to any cash Conversion Consideration, the relevant Conversion Date; and (z) with respect to any other payment, the date that is fifteen (15) calendar days immediately before the date such payment is due.

SECTION 2.05. ACCRUAL OF INTEREST; DEFAULTED AMOUNTS; WHEN PAYMENT DATE IS NOT A BUSINESS DAY.

(A) *Accrual of Interest*. Each Note will accrue interest at a rate per annum equal to 5.500% (the "**Stated Interest**"), plus any Default Interest, Additional Interest and Special Interest that may accrue pursuant to **Sections 2.05(B)**, **3.04** and **7.04**, respectively. Stated Interest on each Note will (i) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in the certificate representing such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest; and (ii) be, subject to **Sections 4.02(D)**, **4.03(F)** and **5.02(D)** (but without duplication of any payment of interest), payable semi-annually in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date. Stated Interest, and, if applicable, Additional Interest and Special Interest, on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

(B) *Defaulted Amounts*. If the Company fails to pay any cash amount (a "**Defaulted Amount**") payable on a Note on or before the due date therefor as provided in this Indenture, then, regardless of whether such failure constitutes an Event of Default, (i) such Defaulted Amount will forthwith cease to be payable to the Holder of such Note otherwise entitled to such payment; (ii) to the extent lawful, interest ("**Default Interest**") will accrue on such Defaulted Amount at a rate per annum equal to the rate per annum at which Stated Interest accrues, from, and including, such due date to, but excluding, the date of payment of such Defaulted Amount and Default Interest; and (iii) such Defaulted Amount and Default Interest will be paid, at the Company's election, as provided in **clause (i)** or **(ii)** below.

(i) *Payment of Default Amounts on a Special Payment Date*. The Company will have the right to pay such Defaulted Amount and Default Interest on a payment date selected by the Company to the Holder of such Note as of the Close of Business on a special record date selected by the Company, *provided* that (1) such special record date is no more than fifteen (15), nor less than ten (10), calendar days before such payment date; and (2) at least fifteen (15) calendar days before such special record date, the Company sends notice to the Trustee and the Holders that states such special record date, such payment date and the amount of such Defaulted Amount and Default Interest to be paid on such payment date.

(ii) *Payment of Default Amount in Any Other Lawful Manner*. If not paid in accordance with **Section 2.05(B)(i)**, such Defaulted Amount and Default Interest will be paid by the Company in any other lawful manner.

Notwithstanding anything to the contrary in this **Section 2.05(B)**, a Default in the payment or delivery of any Conversion Consideration when due will be cured upon the payment or delivery of the same (together, if applicable in the case of any cash Conversion Consideration, with Default Interest thereon) to the Person to whom such Conversion Consideration is payable or deliverable (determined in accordance with **Article 5**).

(C) *Delay of Payment When Payment Date Is Not a Business Day*. If the due date for a payment on a Note as provided in this Indenture is not a Business Day, then, notwithstanding anything to the contrary in this Indenture or the Notes, such payment may be made on the immediately following Business Day with the same force and effect as if such payment were made on such due date (and, for the avoidance of doubt, no interest will accrue on such payment as a result of the related delay). Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a "Business Day."

(D) *Special Provision for Global Notes*. If the first date on which any Additional Interest or Special Interest begins to accrue on a Global Note is on or after the fifth (5th) Business Day before a Regular Record Date and before the next Interest Payment Date, then, notwithstanding anything to the contrary in this Indenture or the Notes, the amount thereof accruing in respect of the period from, and including, such first date to, but excluding, such Interest Payment Date will not be payable on such Interest Payment Date but will instead be deemed to accrue (without duplication) entirely on such Interest Payment Date and be payable on the immediately succeeding Interest Payment Date (and, for the avoidance of doubt, no interest will accrue as a result of the related delay).

SECTION 2.06. REGISTRAR, PAYING AGENT AND CONVERSION AGENT.

(A) *Generally*. The Company will maintain (i) an office or agency in the continental United States where Notes may be presented for registration of transfer or for exchange (the "**Registrar**"); (ii) an office or agency in the continental United States where Notes may be presented for payment (the "**Paying Agent**"); and (iii) an office or agency in the continental United States where Notes may be presented for Conversion (the "**Conversion Agent**"). If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, then the Trustee will act as such and will receive compensation therefor in accordance with this Indenture and any other agreement between the Trustee and the Company. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar, Paying Agent or Conversion Agent. Notwithstanding anything to the contrary in this **Section 2.06(A)**, each of the Registrar, Paying Agent and Conversion Agent with respect to any Global Note must at all times be a Person that is eligible to act in that capacity under the Depositary Procedures.

(B) *Duties of the Registrar*. The Registrar will keep a record (the "**Register**") of the names and addresses of the Holders, the Notes held by each Holder and the transfer, exchange, repurchase, Redemption and Conversion of Notes. Absent manifest error, the entries in the Register will be conclusive and the Company and the Trustee may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(C) *Co-Agents; Company's Right to Appoint Successor Registrars, Paying Agents and Conversion Agents*. The Company may appoint one or more co-Registrars, co-Paying Agents and co-Conversion Agents, each of whom will be deemed to be a Registrar, Paying Agent or Conversion Agent, as applicable, under this Indenture. Subject to **Section 2.06(A)**, the Company may change any Registrar, Paying Agent or Conversion Agent (including appointing itself or any of its Subsidiaries to act in such capacity) without notice to any Holder. The Company will notify the Trustee (and, upon request, any Holder) of the name and address of each Note Agent, if any, not a party to this Indenture and will enter into an appropriate agency agreement with each such Note Agent, which agreement will implement the provisions of this Indenture that relate to such Note Agent.

(D) *Initial Appointments*. The Company appoints the Trustee as, and designates its corporate trust office identified in **Section 11.01** (as the same exists on the Issue Date) in the continental United States as the office for, the initial Paying Agent, the initial Registrar and the initial Conversion Agent.

SECTION 2.07. PAYING AGENT AND CONVERSION AGENT TO HOLD PROPERTY IN TRUST.

The Company will require each Paying Agent or Conversion Agent that is not the Trustee to agree in writing that such Note Agent will (A) hold in trust for the benefit of Holders or the Trustee all money and other property held by such Note Agent for payment or delivery due on the Notes; and (B) notify the Trustee of any default by the Company in making any such payment or delivery. The Company, at any time, may, and the Trustee, while any Default continues, may, require a Paying Agent or Conversion Agent to pay or deliver, as applicable, all money and other property held by it to the Trustee, after which payment or delivery, as applicable, such Note Agent (if not the Company or any of its Subsidiaries) will have no further liability for such money or property. If the Company or any of its Subsidiaries acts as Paying Agent or Conversion Agent, then (A) it will segregate and hold in a separate trust fund for the benefit of the Holders or the Trustee all money and other property held by it as Paying Agent or Conversion Agent; and (B) references in this Indenture or the Notes to the Paying Agent or Conversion Agent holding cash or other property, or to the delivery of cash or other property to the Paying Agent or Conversion Agent, in each case for payment or delivery to any Holders or the Trustee or with respect to the Notes, will be deemed to refer to cash or other property so segregated and held separately, or to the segregation and separate holding of such cash or other property, respectively. Upon the occurrence of any event pursuant to **clause (x)** or **(xi)** of **Section 7.01(A)** with respect to the Company (or with respect to any Subsidiary of the Company acting as Paying Agent or Conversion Agent), the Trustee will serve as the Paying Agent or Conversion Agent, as applicable, for the Notes.

SECTION 2.08. HOLDER LISTS.

If the Trustee is not the Registrar, then the Company will furnish to the Trustee, no later than seven (7) Business Days before each Interest Payment Date, and at such other times as the Trustee may request, a list, in such form and as of such date or time as the Trustee may reasonably require, of the names and addresses of the Holders.

SECTION 2.09. LEGENDS.

(A) *Global Note Legend*. Each Global Note will bear the Global Note Legend (or any similar legend, not inconsistent with this Indenture, required by the Depositary for such Global Note).

(B) *Non-Affiliate Legend*. Each Note will bear the Non-Affiliate Legend.

(C) *Restricted Note Legend*. Subject to **Section 2.12**,

(i) each Note that is a Transfer-Restricted Security will bear the Restricted Note Legend; and

(ii) if a Note is issued in exchange for, in substitution of, or to effect a partial Conversion of, another Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.09(C)(ii)**), including pursuant to **Section 2.10(B)**, **2.10(C)**, **2.11** or **2.13**, then such Note will bear the Restricted Note Legend if such old Note bore the Restricted Note Legend at the time of such exchange or substitution, or on the related Conversion Date with respect to such Conversion, as applicable; *provided*, *however*, that such Note need not bear the Restricted Note Legend if such Note does not constitute a Transfer-Restricted Security immediately after such exchange or substitution, or as of such Conversion Date, as applicable.

(D) *Other Legends*. A Note may bear any other legend or text, not inconsistent with this Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted or as may otherwise be deemed appropriate by the Company.

(E) *Acknowledgment and Agreement by the Holders*. A Holder's acceptance of any Note bearing any legend required by this **Section 2.09** will constitute such Holder's acknowledgment of, and agreement to comply with, the restrictions set forth in such legend.

(F) *Restricted Stock Legend*.

(i) Each Conversion Share will bear the Restricted Stock Legend if the Note upon the Conversion of which such Conversion Share was issued was (or would have been had it not been Converted) a Transfer-Restricted Security at the time such Conversion Share was issued; *provided*, *however*, that such Conversion Share need not bear the Restricted Stock Legend if the Company determines, in its reasonable discretion, that such Conversion Share need not bear the Restricted Stock Legend.

(ii) Notwithstanding anything to the contrary in this **Section 2.09(F)**, a Conversion Share need not bear a Restricted Stock Legend if such Conversion Share is issued in an uncertificated form that does not permit affixing legends thereto, *provided* the Company takes measures (including the assignment thereto of a "restricted" CUSIP number) that it reasonably deems appropriate to enforce the transfer restrictions referred to in the Restricted Stock Legend.

SECTION 2.10. TRANSFERS AND EXCHANGES; CERTAIN TRANSFER RESTRICTIONS.

(A) Provisions Applicable to All Transfers and Exchanges.

(i) *Generally*. Subject to this **Section 2.10**, Physical Notes and beneficial interests in Global Notes may be transferred or exchanged from time to time and the Registrar will record each such transfer or exchange in the Register.

(ii) *Transferred and Exchanged Notes Remain Valid Obligations of the Company*. Each Note issued upon transfer or exchange of any other Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.10(A)(ii)**) or portion thereof in accordance with this Indenture will be the valid obligation of the Company, evidencing the same indebtedness, and entitled to the same benefits under this Indenture, as such old Note or portion thereof, as applicable.

(iii) *No Service Charge; Transfer Taxes*. The Company, the Trustee and the Note Agents will not impose any service charge on any Holder for any transfer, exchange or Conversion of Notes, but the Company, the Trustee, the Registrar and the Conversion Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or Conversion of Notes, other than exchanges pursuant to **Section 2.11**, **2.17** or **8.05** not involving any transfer.

(iv) *Transfers and Exchanges Must Be in Authorized Denominations*. Notwithstanding anything to the contrary in this Indenture or the Notes, a Note may not be transferred or exchanged in part unless the portion to be so transferred or exchanged is in an Authorized Denomination.

(v) *Trustee's Disclaimer*. The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any transfer restrictions imposed under this Indenture or applicable law with respect to any Security, other than to require the delivery of such certificates or other documentation or evidence as expressly required by this Indenture and to examine the same to determine substantial compliance as to form with the requirements of this Indenture.

(vi) *Legends*. Each Note issued upon transfer of, or in exchange for, another Note will bear each legend, if any, required by **Section 2.09**.

(vii) *Settlement of Transfers and Exchanges*. Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Note, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(viii) *Interpretation*. For the avoidance of doubt, and subject to the terms of this Indenture, as used in this **Section 2.10**, an "exchange" of a Global Note or a Physical Note includes (x) an exchange effected for the sole purpose of removing any Restricted Note Legend affixed to such Global Note or Physical Note; and (y) if such Global Note or Physical Note is identified by a "restricted" CUSIP number, an exchange effected for the sole purpose of causing such Global Note or Physical Note to be identified by an "unrestricted" CUSIP number.

(B) *Transfers and Exchanges of Global Notes*.

(i) *Certain Restrictions*. Subject to the immediately following sentence, no Global Note may be transferred or exchanged in whole except (x) by the Depositary to a nominee of the Depositary; (y) by a nominee of the Depositary to the Depositary or to another nominee of the Depositary; or (z) by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. No Global Note (or any portion thereof) may be transferred to, or exchanged for, a Physical Note; *provided*, *however*, that a Global Note will be exchanged, pursuant to customary procedures, for one or more Physical Notes if:

(1) (x) the Depositary notifies the Company or the Trustee that the Depositary is unwilling or unable to continue as depositary for such Global Note or (y) the Depositary ceases to be a "clearing agency" registered under Section 17A of the Exchange Act and, in each case, the Company fails to appoint a successor Depositary within ninety (90) days of such notice or cessation;

(2) an Event of Default has occurred and is continuing and the Company, the Trustee or the Registrar has received a written request from the Depositary, or from a holder of a beneficial interest in such Global Note, to exchange such Global Note or beneficial interest, as applicable, for one or more Physical Notes; or

(3) the Company, in its sole discretion, permits the exchange of any beneficial interest in such Global Note for one or more Physical Notes at the request of the owner of such beneficial interest.

(ii) *Effecting Transfers and Exchanges*. Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Global Note (or any portion thereof):

(1) the Trustee will reflect any resulting decrease of the principal amount of such Global Note by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if such notation results in such Global Note having a principal amount of zero, then the Company may (but is not required to) instruct the Trustee to cancel such Global Note pursuant to **Section 2.15**);

(2) if required to effect such transfer or exchange, then the Trustee will reflect any resulting increase of the principal amount of any other Global Note by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such other Global Note;

(3) if required to effect such transfer or exchange, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Global Note bearing each legend, if any, required by **Section 2.09**; and

(4) if such Global Note (or such portion thereof), or any beneficial interest therein, is to be exchanged for one or more Physical Notes, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Global Note to be so exchanged; (y) are registered in such name(s) as the Depositary specifies (or as otherwise determined pursuant to customary procedures); and (z) bear each legend, if any, required by **Section 2.09**.

(iii) *Compliance with Depositary Procedures*. Each transfer or exchange of a beneficial interest in any Global Note will be made in accordance with the Depositary Procedures.

(C) Transfers and Exchanges of Physical Notes.

(i) *Requirements for Transfers and Exchanges*. Subject to this **Section 2.10**, a Holder of a Physical Note may (x) transfer such Physical Note (or any portion thereof in an Authorized Denomination) to one or more other Person(s); (y) exchange such Physical Note (or any portion thereof in an Authorized Denomination) for one or more other Physical Notes in Authorized Denominations having an aggregate principal amount equal to the aggregate principal amount of the Physical Note (or portion thereof) to be so exchanged; and (z) if then permitted by the Depositary Procedures, transfer such Physical Note (or any portion thereof in an Authorized Denomination) in exchange for a beneficial interest in one or more Global Notes; *provided*, *however*, that, to effect any such transfer or exchange, such Holder must:

(1) surrender such Physical Note to be transferred or exchanged to the office of the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Trustee or the Registrar; and

(2) deliver such certificates, documentation or evidence as may be required pursuant to **Section 2.10(D)**.

(ii) *Effecting Transfers and Exchanges*. Upon the satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Physical Note (such Physical Note being referred to as the "old Physical Note" for purposes of this **Section 2.10(C)(ii)**) of a Holder (or any portion of such old Physical Note in an Authorized Denomination):

(1) such old Physical Note will be promptly cancelled pursuant to **Section 2.15**;

(2) if such old Physical Note is to be so transferred or exchanged only in part, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such old Physical Note not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**;

(3) in the case of a transfer:

(a) to the Depositary or a nominee thereof that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Global Notes, the Trustee will reflect an increase of the principal amount of one or more existing Global Notes by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note(s), which increase(s) are in Authorized Denominations and aggregate to the principal amount to be so transferred, and which Global Note(s) bear each legend, if any, required by **Section 2.09**; *provided*, *however*, that if such transfer cannot be so effected by notation on one or more existing Global Notes (whether because no Global Notes bearing each legend, if any, required by **Section 2.09** then exist, because any such increase will result in any Global Note having an aggregate principal amount exceeding the maximum aggregate principal amount permitted by the Depositary or otherwise), then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Global Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount that is to be so transferred but that is not effected by notation as provided above; and (y) bear each legend, if any, required by **Section 2.09**; and

(b) to a transferee that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Physical Notes, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 2.09**; and

(4) in the case of an exchange, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Note was registered; and (z) bear each legend, if any, required by **Section 2.09**.

(D) *Requirement to Deliver Documentation and Other Evidence*. If a Holder of any Note that is identified by a "restricted" CUSIP number or that bears a Restricted Note Legend or is a Transfer-Restricted Security requests to:

(i) cause such Note to be identified by an "unrestricted" CUSIP number;

(ii) remove such Restricted Note Legend; or

(iii) register the transfer of such Note to the name of another Person, then the Company, the Trustee and the Registrar may refuse to effect such identification, removal or transfer, as applicable, unless there is delivered to the Company, the Trustee and the Registrar such certificates or other documentation or evidence as the Company, the Trustee and the Registrar may reasonably require for the Company to determine that such identification, removal or transfer, as applicable, complies with the Securities Act and other applicable securities laws; *provided*, *however*, that no such certificates, documentation or evidence need be so delivered on or after the Free Trade Date with respect to such Note unless the Company determines, in its reasonable discretion, that such Note is not eligible to be offered, sold or otherwise transferred pursuant to Rule 144 or otherwise without any requirements as to volume, manner of sale, availability of current public information or notice under the Securities Act.

(E) *Transfers of Notes Subject to Redemption, Repurchase or Conversion*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) has been surrendered for Conversion, except to the extent that any portion of such Note is not subject to Conversion; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 4.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the applicable Redemption Price when due.

SECTION 2.11. EXCHANGE AND CANCELLATION OF NOTES TO BE CONVERTED OR TO BE REPURCHASED PURSUANT TO A REPURCHASE UPON FUNDAMENTAL CHANGE OR REDEMPTION.

(A) *Partial Conversions of Physical Notes and Partial Repurchases of Physical Notes Pursuant to a Repurchase Upon Fundamental Change or Redemption*. If only a portion of a Physical Note of a Holder is to be Converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such Conversion or repurchase, as applicable, the Company will cause such Physical Note to be exchanged, pursuant and subject to **Section 2.10(C)**, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so Converted or repurchased, as applicable, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be so Converted or repurchased, as applicable, which Physical Note will be Converted or repurchased, as applicable, pursuant to the terms of this Indenture; *provided*, *however*, that the Physical Note referred to in this **clause (ii)** need not be issued at any time after which such principal amount subject to such Conversion or repurchase, as applicable, is deemed to cease to be outstanding pursuant to **Section 2.18**.

(B) *Cancellation of Notes that Are Converted and Notes that Are Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption*.

(i) *Physical Notes*. If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.11(A)**) of a Holder is to be Converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18** and the time such Physical Note is surrendered for such Conversion or repurchase, as applicable, (1) such Physical Note will be cancelled pursuant to **Section 2.15**; and (2) in the case of a partial Conversion or repurchase, as applicable, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so Converted or repurchased, as applicable; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**.

(ii) *Global Notes*. If a Global Note (or any portion thereof) is to be Converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the time such Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18**, the Trustee will reflect a decrease of the principal amount of such Global Note in an amount equal to the principal amount of such Global Note to be so Converted or repurchased, as applicable, by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if the principal amount of such Global Note is zero following such notation, cancel such Global Note pursuant to **Section 2.15**).

SECTION 2.12. REMOVAL OF TRANSFER RESTRICTIONS.

Without limiting the generality of any other provision of this Indenture (including **Section 3.04**), the Restricted Note Legend affixed to any Note will be deemed, pursuant to this **Section 2.12** and the footnote to such Restricted Note Legend, to be removed therefrom upon the Company's delivery to the Trustee of notice, signed on behalf of the Company by one (1) of its Officers, to such effect (and, for the avoidance of doubt, such notice need not be accompanied by an Officer's Certificate or an Opinion of Counsel in order to be effective to cause such Restricted Note Legend to be deemed to be removed from such Note). If such Note bears a "restricted" CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this **Section 2.12** and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the "unrestricted" CUSIP and ISIN numbers identified in such footnotes; *provided*, *however*, that if such Note is a Global Note and the Depositary thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by "unrestricted" CUSIP and ISIN numbers in the facilities of such Depositary, then, for purposes of **Section 3.04** and the definition of Freely Tradable, such Global Note will not be deemed to be identified by "unrestricted" CUSIP and ISIN numbers until such time as such exchange or procedure is effected.

SECTION 2.13. REPLACEMENT NOTES.

If a Holder of any Note claims that such Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a replacement Note upon surrender to the Trustee of such mutilated Note, or upon delivery to the Trustee of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Trustee and the Company. The Company may charge the Holder of a Note for the Company's and the Trustee's expenses in replacing such Note pursuant to this **Section 2.13**. In addition, in the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder thereof to provide such security or indemnity that is satisfactory to the Company and the Trustee to protect the Company and the Trustee from any loss that any of them may suffer if such Note is replaced.

Every replacement Note issued pursuant to this **Section 2.13** will be an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and ratably with all other Notes issued under this Indenture, regardless of whether the related lost, destroyed or wrongfully taken Note is at any time enforceable by any Person.

SECTION 2.14. REGISTERED HOLDERS; CERTAIN RIGHTS WITH RESPECT TO GLOBAL NOTES.

Only the Holder of a Note will have rights under this Indenture as the owner of such Note. Without limiting the generality of the foregoing, Depositary Participants will have no rights as such under this Indenture with respect to any Global Note held on their behalf by the Depositary or its nominee, or by the Trustee as its custodian, and the Company, the Trustee and the Note Agents, and their respective agents, may treat the Depositary as the absolute owner of such Global Note for all purposes whatsoever; *provided*, *however*, that (A) the Holder of any Global Note may grant proxies and otherwise authorize any Person, including Depositary Participants and Persons that hold interests in Notes through Depositary Participants, to take any action that such Holder is entitled to take with respect to such Global Note under this Indenture or the Notes; and (B) the Company and the Trustee, and their respective agents, may give effect to any written certification, proxy or other authorization furnished by the Depositary.

SECTION 2.15. CANCELLATION.

The Company may at any time deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent will forward to the Trustee each Note duly surrendered to them for transfer, exchange, payment or Conversion. The Trustee will promptly cancel all Notes so surrendered to it in accordance with its customary procedures. Without limiting the generality of **Section 2.03(B)**, the Company may not originally issue new Notes to replace Notes that it has paid or that have been cancelled upon transfer, exchange, payment or Conversion.

SECTION 2.16. NOTES HELD BY THE COMPANY OR ITS AFFILIATES.

Without limiting the generality of **Section 2.18**, in determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any of its Affiliates will be deemed not to be outstanding; *provided*, *however*, that, for purposes of determining whether the Trustee is protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned will be so disregarded.

SECTION 2.17. TEMPORARY NOTES.

Until definitive Notes are ready for delivery, the Company may issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. The Company will promptly prepare, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, definitive Notes in exchange for temporary Notes. Until so exchanged, each temporary Note will in all respects be entitled to the same benefits under this Indenture as definitive Notes.

SECTION 2.18. OUTSTANDING NOTES.

(A) *Generally*. The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with **Section 2.15**; (ii) assigned a principal amount of zero by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of any Global Note representing such Note; (iii) paid in full (including upon Conversion) in accordance with this Indenture; or (iv) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (B)**, **(C)** or **(D)** of this **Section 2.18**.

(B) *Replaced Notes*. If a Note is replaced pursuant to **Section 2.13**, then such Note will cease to be outstanding at the time of its replacement, unless the Trustee and the Company receive proof reasonably satisfactory to them that such Note is held by a "*bona fide* purchaser" under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase*. If, on a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price, Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a Default in the payment of any such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be outstanding, except to the extent provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will terminate with respect to such Notes (or such portions thereof), other than the right to receive the Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest on, such Notes (or such portions thereof), in each case as provided in this Indenture.

(D) *Notes to Be Converted*. At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be Converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **Section 5.02(D)**, upon such Conversion) be deemed to cease to be outstanding, except to the extent provided in **Section 5.02(D)** or **Section 5.08**.

(E) *Cessation of Accrual of Interest*. Except as provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**, interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this **Section 2.18**, to cease to be outstanding, unless there occurs a Default in the payment or delivery of any cash or other property due on such Note.

SECTION 2.19. REPURCHASES BY THE COMPANY.

Without limiting the generality of **Section 2.15**, the Company and its Affiliates may, from time to time, repurchase Notes in open market purchases or in negotiated transactions without delivering prior notice to Holders.

SECTION 2.20. CUSIP AND ISIN NUMBERS.

Subject to **Section 2.12**, the Company may use one or more CUSIP or ISIN numbers to identify any of the Notes, and, if so, the Company and the Trustee will use such CUSIP or ISIN number(s) in notices to Holders; *provided*, *however*, that (i) the Trustee makes no representation as to the correctness or accuracy of any such CUSIP or ISIN number; and (ii) the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number. The Company will promptly notify the Trustee of any change in the CUSIP or ISIN number(s) identifying any Notes.

ARTICLE III.
COVENANTS

SECTION 3.01. PAYMENT ON NOTES.

(A) *Generally*. The Company will pay or cause to be paid all the principal of, the Fundamental Change Repurchase Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in this Indenture.

(B) *Deposit of Funds*. Before 11:00 A.M., New York City time, on each Redemption Date, Fundamental Change Repurchase Date or Interest Payment Date, and on the Maturity Date or any other date on which any cash amount is due on the Notes, the Company will deposit, or will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose.

SECTION 3.02. EXCHANGE ACT REPORTS.

(A) *Generally*. The Company will send to the Trustee copies of all reports that the Company files with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company files the same; *provided*, *however*, that the Company need not send to the Trustee any material for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC. Any report that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Trustee at the time such report is so filed via the EDGAR system (or such successor). Upon the request of any Holder, the Trustee will provide to such Holder a copy of any report that the Company has sent the Trustee pursuant to this **Section 3.02(A)**, other than a report that is deemed to be sent to the Trustee pursuant to the preceding sentence.

(B) *Trustee's Disclaimer*. The Trustee need not determine whether the Company has filed any material via the EDGAR system (or such successor). The sending or filing of reports pursuant to **Section 3.02(A)** will not be deemed to constitute actual or constructive notice to the Trustee of any information contained, or determinable from information contained, therein, including the Company's compliance with any of its covenants under this Indenture.

SECTION 3.03. RULE 144A INFORMATION.

If the Company is not subject to Section 13 or 15(d) of the Exchange Act at any time when any Notes or Common Shares issuable upon Conversion of the Notes are outstanding and constitute "restricted securities" (as defined in Rule 144), then the Company (or its successor) will promptly provide, to the Trustee and, upon written request, to any Holder, beneficial owner or prospective purchaser of such Notes or shares, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or shares pursuant to Rule 144A; *provided*, *however*, that, from and after the De-Legending Deadline Date of any Note, such information need not be provided with respect to such Note, or any Common Share issued upon Conversion of such Note, if such Note or share, as applicable, is Freely Tradable (determined, with respect to any Common Share, as if each reference to any Note in the definition of "Freely Tradable" were instead a reference to Common Shares).

SECTION 3.04. ADDITIONAL INTEREST.

(A) *Accrual of Additional Interest*.

(i) If, at any time during the six (6) month period beginning on, and including, the date that is six (6) months after the Last Original Issue Date of any Note, (1) the Company fails to timely file any report (other than Form 8-K reports) that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act (after giving effect to all applicable grace periods thereunder); or (2) such Note is not otherwise Freely Tradable, then Additional Interest will accrue on such Note for each day during such period on which such failure is continuing or such Note is not Freely Tradable. The "grace periods" referred to in the preceding sentence with respect to any report will include the maximum period afforded by Rule 12b-25 (or any successor rule thereto) under the Exchange Act regardless of whether the Company files, or indicates in the related Form 12b-25 (or any successor form thereto) that the Company expects to or will file, such report before the expiration of such maximum period.

(ii) In addition, Additional Interest will accrue on a Note on each day on which such Note is not Freely Tradable on or after the De-Legending Deadline Date for such Note; *provided*, *however*, no Additional Interest will accrue or be owed until the fifth (5th) Business Day following written notification to the Company by the Trustee (or to the Company and the Trustee by any Holder or beneficial owner of the Notes) requesting that the Company complies with its obligations set forth in **Section 3.04(A)(i)** (which notice may be given at any time after the three hundred and thirtieth (330th) day after the Last Original Issue Date of the Initial Notes), it being understood and agreed that in no event will such Additional Interest accrue or be owed pursuant to this **Section 3.04** for any period before the applicable De-Legending Deadline Date.

(B) *Amount and Payment of Additional Interest*. Subject to **Section 3.04(C)**, any Additional Interest that accrues on a Note pursuant to **Section 3.04(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to one quarter of one percent (0.25%) of the principal amount thereof for the first ninety (90) days on which Additional Interest accrues and, thereafter, at a rate per annum equal to one half of one percent (0.50%) of the principal amount thereof; *provided*, *however*, that in no event will Additional Interest (excluding any interest that accrues on any Deferred Additional Interest pursuant to **Section 3.04(C)**), together with any Special Interest, accrue on any day on a Note at a combined rate per annum that exceeds one half of one percent (0.50%). For the avoidance of doubt, any Additional Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note and, subject to the proviso of the immediately preceding sentence, in addition to any Special Interest that accrues on such Note.

(C) *Deferral of Additional Interest*.

(i) *Generally*. Notwithstanding anything to the contrary in this **Section 3.04**, but subject to **Section 3.04(C)(iii)**, Additional Interest that accrues on any Note for any period on or after the De-Legending Deadline Date of such Note will not be payable on any Interest Payment Date occurring on or after such De-Legending Deadline Date unless (1) a Holder (or an owner of a beneficial interest in a Global Note) has delivered to the Company and the Trustee, no later than the fifth (5th) Business Day before the Regular Record Date immediately before such Interest Payment Date, a written notice (a "**Deferred Additional Interest Demand Request**") demanding payment of Additional Interest; or (2) the Company, in its sole and absolute discretion, elects, by sending notice of such election (a "**Notice of Election to Pay Deferred Additional Interest**") to Holders before such Regular Record Date, to pay such Additional Interest on such Interest Payment Date (any accrued and unpaid Additional Interest that, in accordance with this sentence, is not paid on such Interest Payment Date, "**Deferred Additional Interest**"). Interest will accrue on such Deferred Additional Interest from, and including, such Interest Payment Date at a rate per annum equal to the rate per annum at which Stated Interest accrues on the Notes to, but excluding, the date on which such Deferred Additional Interest, together with accrued interest thereon, is paid. Once any accrued and unpaid Additional Interest becomes payable on an Interest Payment Date (whether as a result of the delivery of a written notice pursuant to **clause (1)** above or, if earlier, the Company's election to pay the same pursuant to **clause (2)** above), Additional Interest will thereafter not be subject to deferral pursuant to this **Section 3.04(C)**.

(ii) *Interpretive Provisions*. Each reference in this Indenture or the Notes to any accrued interest (including in the definitions of the Redemption Price and the Fundamental Change Repurchase Price for any Note) or to any accrued Additional Interest includes, to the extent applicable, and without duplication, any Deferred Additional Interest, together with accrued and unpaid interest thereon. For the avoidance of doubt, the failure to pay any accrued and unpaid Additional Interest on an Interest Payment Date will not constitute a Default or an Event of Default under this Indenture or the Notes if such payment is deferred in accordance with **Section 3.04(C)(i)**. Otherwise, such a failure to pay will be subject to **Section 7.01(A)(ii)**.

(iii) *Payment or Extinguishment Upon Maturity*. Notwithstanding anything to the contrary in this Indenture or the Notes, if (1) any unpaid Deferred Additional Interest exists on any Notes as of the Close of Business on the Regular Record Date immediately preceding the Maturity Date; (2) no Holder (or owner of a beneficial interest in a Global Note) has delivered a Deferred Additional Interest Demand Request in the manner set forth in **Section 3.04(C)(i)** on or before the fifth (5th) Business Day before such Regular Record Date; and (3) the Company has not sent a Notice of Election to Pay Deferred Additional Interest in the manner set forth in **Section 3.04(C)(i)** before such Regular Record Date, then Deferred Additional Interest on each Note then outstanding will cease to accrue, and all Deferred Additional Interest, together with interest thereon, on such Note will be deemed to be extinguished on the following date: (a) if such Note is to be Converted, the Conversion Date for such Conversion (it being understood, for the avoidance of doubt, that the Conversion Consideration therefor need not include, and the amount referred to in **clause (i)** of **Section 5.02(D)** need not include, the payment of any such Deferred Additional Interest or any interest thereon); and (b) in all other cases, the later of (x) the Maturity Date; and (y) the first date on which the Company has repaid the principal of, and accrued and unpaid interest (other than such Deferred Additional Interest and any interest thereon) on, such Note in full.

(D) *Notice of Accrual of Additional Interest; Trustee's Disclaimer*. The Company will send notice to the Holder of each Note, and to the Trustee, of the commencement and termination of any period in which Additional Interest accrues on such Note, except that no such notice is required in respect of any Additional Interest that is deferred in accordance with **Section 3.04(C)**. In addition, if Additional Interest accrues on any Note, then, no later than five (5) Business Days before each date on which such Additional Interest is to be paid, the Company will deliver an Officer's Certificate to the Trustee and the Paying Agent stating (i) that the Company is obligated to pay Additional Interest on such Note on such date of payment; and (ii) the amount of such Additional Interest that is payable on such date of payment. The Trustee (x) will have no duty to determine whether any Additional Interest is payable (or whether the same is deferred or is accruing interest) or the amount thereof; and (y) may assume (without inquiry) that no Additional Interest is payable or has been deferred unless and until the Company delivers such Officer's Certificate.

(E) *Exclusive Remedy*. The accrual of Additional Interest will be the exclusive remedy available to Holders for the failure of their Notes to become Freely Tradable.

SECTION 3.05. [INTENTIONALLY LEFT BLANK].

SECTION 3.06. COMPLIANCE AND DEFAULT CERTIFICATES.

(A) *Annual Compliance Certificate*. Within one hundred and twenty (120) days after the end of each fiscal year of the Company, beginning with the first such fiscal year ending after the date of this Indenture, the Company will deliver an Officer's Certificate to the Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company and its Subsidiaries during such fiscal year with a view towards determining whether any Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action the Company is taking or proposes to take with respect thereto).

(B) *Default Certificate*. If a Default or Event of Default occurs, then the Company will, within thirty (30) days after the Company first obtains knowledge of its occurrence, deliver an Officer's Certificate to the Trustee describing the same and what action the Company is taking or proposes to take with respect thereto; *provided*, *however*, that the Company will not be required to deliver such Officer's Certificate at any time after such Default is cured or waived.

SECTION 3.07. STAY, EXTENSION AND USURY LAWS.

To the extent that it may lawfully do so, the Company (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of this Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee by this Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 3.08. ACQUISITION OF NOTES BY THE COMPANY AND ITS AFFILIATES.

Without limiting the generality of **Section 2.18**, Notes that the Company or any of its Subsidiaries have purchased or otherwise acquired will be deemed to remain outstanding (except to the extent provided in **Section 2.16**) until such time as such Notes are delivered to the Trustee for cancellation. The Company will use commercially reasonable efforts to prevent any of its controlled Affiliates from acquiring any Note (or any beneficial interest therein).

ARTICLE IV.
REPURCHASE AND REDEMPTION

SECTION 4.01. NO SINKING FUND.

No sinking fund is required to be provided for the Notes.

SECTION 4.02. OFFER TO REPURCHASE NOTES UPON A FUNDAMENTAL CHANGE.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change*. Subject to the other terms of this **Section 4.02**, if a Fundamental Change occurs, then the Company will be required to offer to each Holder to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price (the "**Fundamental Change Repurchase Right**").

(B) *Repurchase Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (including as a result of the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to the first sentence of **Section 4.02(D)**, on such Fundamental Change Repurchase Date), then (i) the Company may not repurchase any Notes pursuant to this **Section 4.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase Upon Fundamental Change to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Notes in accordance with the Depositary Procedures).

(C) *Fundamental Change Repurchase Date*. The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company's choosing that is no more than thirty five (35), nor less than twenty (20), Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 4.02(E)**.

(D) *Fundamental Change Repurchase Price*. The Fundamental Change Repurchase Price for any Note to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided*, *however*, that if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date); and (ii) the Fundamental Change Repurchase Price will not include accrued and unpaid interest on such Note to, but excluding, such Fundamental Change Repurchase Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Fundamental Change Repurchase Price will include interest on Notes to be repurchased from, and including, such Interest Payment Date.

(E) *Fundamental Change Notice*. On or before the twentieth (20th) calendar day after the effective date of a Fundamental Change, the Company will send to each Holder, the Trustee, the Conversion Agent and the Paying Agent a notice of such Fundamental Change (a "**Fundamental Change Notice**").

Such Fundamental Change Notice must state:

(i) briefly, the events causing such Fundamental Change;

(ii) the effective date of such Fundamental Change;

(iii) the procedures that a Holder must follow to accept the offer to repurchase its Notes pursuant to this **Section 4.02**, including the deadline for accepting such offer and the procedures for submitting and withdrawing a Fundamental Change Repurchase Notice;

(iv) the Fundamental Change Repurchase Date for such Fundamental Change;

(v) the Fundamental Change Repurchase Price per $1,000 principal amount of Notes for such Fundamental Change (and, if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to the first sentence of **Section 4.02(D)**);

(vi) the name and address of the Paying Agent and the Conversion Agent;

(vii) the Conversion Rate in effect on the date of such Fundamental Change Notice and a description and quantification of any adjustments to the Conversion Rate that may result from such Fundamental Change (including pursuant to **Section 5.07**);

(viii) that Notes for which a Fundamental Change Repurchase Notice has been duly tendered and not duly withdrawn must be delivered to the Paying Agent for the Holder thereof to be entitled to receive the Fundamental Change Repurchase Price;

(ix) that Notes (or any portion thereof) that are subject to a Fundamental Change Repurchase Notice that has been duly tendered may be Converted only if such Fundamental Change Repurchase Notice is withdrawn in accordance with this Indenture; and

(x) the CUSIP and ISIN numbers, if any, of the Notes.

Neither the failure to deliver a Fundamental Change Notice nor any defect in a Fundamental Change Notice will limit the Fundamental Change Repurchase Right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) *Procedures to Exercise the Fundamental Change Repurchase Right*.

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased*. To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer (if such Note is a Physical Note) or by book-entry transfer (if such Note is a Global Note).

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices*. Each Fundamental Change Repurchase Notice with respect to a Note must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be repurchased, which must be an Authorized Denomination; and

(3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note;

provided, *however*, that if such Note is a Global Note, then such Fundamental Change Repurchase Notice must comply with the Depositary Procedures (and any such Fundamental Change Repurchase Notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

(iii) *Withdrawal of Fundamental Change Repurchase Notice*. A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and

(3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination;

provided, *however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.11**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof (or, if applicable with respect to any Global Note, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Note in accordance with the Depositary Procedures).

(G) *Payment of the Fundamental Change Repurchase Price*. Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time prescribed by **Section 3.01(B)**, the Company will cause the Fundamental Change Repurchase Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date (x) such Note is delivered to the Paying Agent (in the case of a Physical Note) or (y) the Depositary Procedures relating to the repurchase, and the delivery to the Paying Agent, of such Holder's beneficial interest in such Note to be repurchased are complied with (in the case of a Global Note). For the avoidance of doubt, interest payable pursuant to the proviso to the first sentence of **Section 4.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered or such Depositary Procedures are complied with pursuant to the first sentence of this **Section 4.02(G)**.

(H) *Third Party May Conduct Repurchase Offer In Lieu of the Company*. Notwithstanding anything to the contrary in this **Section 4.02**, the Company will be deemed to satisfy its obligations under this **Section 4.02** if (i) one or more third parties conduct any Repurchase Upon Fundamental Change and related offer to repurchase Notes otherwise required by this **Section 4.02** in a manner that would have satisfied the requirements of this **Section 4.02** if conducted directly by the Company; and (ii) an owner of a beneficial interest in any Note repurchased by such third party or parties will not receive a lesser amount (as a result of withholding or similar taxes) than such owner would have received had the Company repurchased such Note.

(I) *No Requirement to Conduct an Offer to Repurchase Notes if the Fundamental Change Results in the Notes Becoming Convertible into an Amount of Cash Exceeding the Fundamental Change Repurchase Price*. Notwithstanding anything to the contrary in this **Section 4.02**, the Company will not be required to send a Fundamental Change Notice pursuant to **Section 4.02(E)**, or offer to repurchase or repurchase any Notes pursuant to this **Section 4.02**, in connection with a Common Share Change Event that constitutes a Fundamental Change pursuant to **clause (B)(ii)** of the definition thereof (regardless of whether such Common Share Change Event also constitutes a Fundamental Change pursuant to any other clause of such definition), if (i) the Reference Property of such Common Share Change Event consists entirely of cash in U.S. dollars; (ii) immediately after such Fundamental Change, the Notes become Convertible, pursuant to **Section 5.09(A)** and, if applicable, **Section 5.07**, into consideration that consists solely of U.S. dollars in an amount per $1,000 aggregate principal amount of Notes that equals or exceeds the Fundamental Change Repurchase Price per $1,000 aggregate principal amount of Notes (calculated assuming that the same includes accrued and unpaid interest to, but excluding, the latest possible Fundamental Change Repurchase Date for such Fundamental Change); and (iii) the Company timely sends the notice relating to such Fundamental Change required pursuant to **Section 5.01(C)(i)(3)(b)** and includes, in such notice, a statement that the Company is relying on this **Section 4.02(I)**.

(J) *Compliance with Applicable Securities Laws*. To the extent applicable, the Company will comply, in all material respects, with all U.S. federal and state securities laws in connection with a Repurchase Upon Fundamental Change (including complying with Rules 13e-4 and 14e-1 under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in this Indenture; *provided*, *however*, that, to the extent that the Company's obligations pursuant to this **Section 4.02** conflict with any law or regulation that is applicable to the Company and enacted after the Issue Date, the Company's compliance with such law or regulation will not be considered to be a Default of such obligations.

(K) *Repurchase in Part*. Subject to the terms of this **Section 4.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 4.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

SECTION 4.03. RIGHT OF THE COMPANY TO REDEEM THE NOTES.

(A) *No Right to Redeem Before August 15, 2030 Except Pursuant to a Cleanup Redemption.* The Company may not redeem the Notes at its option pursuant to this **Section 4.03** at any time before August 15, 2030, except pursuant to a Cleanup Redemption.

(B) *Right to Redeem the Notes on or After August 15, 2030.* Subject to the terms of this **Section 4.03**, the Company has the right, at its election, to redeem all, or any portion in an Authorized Denomination, of the Notes, at any time, and from time to time, on a Redemption Date on or after August 15, 2030 and on or before the sixtieth (60th) Scheduled Trading Day immediately before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if (i) the Notes are Freely Tradable as of the Redemption Notice Date for such Redemption and all accrued and unpaid Additional Interest, if any, has been paid in full, as of the first Interest Payment Date occurring on or before such Redemption Notice Date; and (ii) the Last Reported Sale Price per Common Share exceeds one hundred and thirty percent (130%) of the Conversion Price on (x) each of at least twenty (20) Trading Days (whether or not consecutive) during the thirty (30) consecutive Trading Days ending on, and including, the Trading Day immediately before such Redemption Notice Date; and (y) the Trading Day immediately before such Redemption Notice Date; *provided*, *however*, that the Company will not call less than all of the outstanding Notes for Redemption unless the excess of the principal amount of Notes outstanding as of the time the Company sends the related Redemption Notice over the aggregate principal amount of Notes set forth in such Redemption Notice as being subject to such Redemption is at least ten million dollars ($10,000,000). For the avoidance of doubt, the calling of any Notes for Provisional Redemption will constitute a Make-Whole Fundamental Change with respect to such Notes pursuant to **clause (B)** of the definition thereof.

(C) *Right to Redeem Pursuant to a Cleanup Redemption*. Subject to the other terms of this **Section 4.03**, the Company has the right, at its election, to redeem (a "**Cleanup Redemption**") all, but not less than all, of the Notes for cash, at any time, but only if the following conditions are satisfied: (i) the principal amount of the Notes outstanding at such time is less than ten percent (10%) of the aggregate principal amount of the Initial Notes issued pursuant to this Indenture; and (ii) if the Redemption Date is after the De-Legending Deadline Date of the Notes, the Notes are Freely Tradable and all accrued and unpaid Additional Interest, if any, has been paid in full as of the first Interest Payment Date occurring on or before such Redemption Notice Date. For the avoidance of doubt, the calling of any Notes for a Cleanup Redemption will constitute a Make-Whole Fundamental Change pursuant to **clause (B)** of the definition thereof.

(D) *Redemption Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the applicable Redemption Date (including as a result of the payment of the related Redemption Price, and any related interest pursuant to the proviso to the first sentence of **Section 4.03(F)**, on such Redemption Date), then (i) the Company may not call for Redemption or otherwise redeem any Notes pursuant to this **Section 4.03**; and (ii) the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depositary Procedures).

(E) *Redemption Date*. The Redemption Date for any Redemption will be a day of the Company's choosing that (i) is no more than eighty-five (85), nor less than sixty-five (65), Scheduled Trading Days after the Redemption Notice Date for such Redemption; and (ii) is, as of such Redemption Notice Date, scheduled to be a Business Day; *provided*, *however*, that if, in accordance with **Section 5.03(A)(i)(3)**, the Company has elected to settle all Conversions of Notes with a Conversion Date that occurs on or after such Redemption Notice Date and on or before the second (2nd) Business Day immediately before the Redemption Date by Physical Settlement, then the Company may instead elect to choose a Redemption Date that is a Business Day no more than sixty (60), nor less than fifteen (15), calendar days after such Redemption Notice Date.

(F) *Redemption Price*. The Redemption Price for any Note called for Redemption is an amount in cash equal to the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Redemption; *provided*, *however*, that if such Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (ii) the Redemption Price will not include accrued and unpaid interest on such Note to, but excluding, such Redemption Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Redemption Price will include interest on Notes to be redeemed from, and including, such Interest Payment Date.

(G) *Redemption Notice*. To call any Notes for Redemption, the Company must send to each Holder of such Notes a written notice of such Redemption (a "**Redemption Notice**").

Such Redemption Notice must state:

(i) that such Notes have been called for Redemption, briefly describing the Company's Redemption right under this Indenture;

(ii) the Redemption Date for such Redemption;

(iii) the Redemption Price per $1,000 principal amount of Notes for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to the first sentence of **Section 4.03(F)**);

(iv) the name and address of the Paying Agent and the Conversion Agent;

(v) that Notes called for Redemption may be Converted at any time before the Close of Business on the second (2nd) Business Day immediately before the Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full);

(vi) the Conversion Rate in effect on the Redemption Notice Date for such Redemption and a description and quantification of any adjustments to the Conversion Rate that may result from such Redemption (including pursuant to **Section 5.07**);

(vii) the Settlement Method that will apply to all Conversions of Notes with a Conversion Date that occurs on or after such Redemption Notice Date and on or before the second (2nd) Business Day immediately before such Redemption Date; and

(viii) the CUSIP and ISIN numbers, if any, of the Notes.

On or before the Redemption Notice Date, the Company will send a copy of such Redemption Notice to the Trustee, the Conversion Agent and the Paying Agent.

(H) *Selection and Conversion of Notes to Be Redeemed in Part*.

(i) If less than all Notes then outstanding are called for Redemption, then the Notes to be redeemed will be selected by the Company as follows: (1) in the case of Global Notes, in accordance with the Depositary Procedures; and (2) in the case of Physical Notes, pro rata, by lot or by such other method the Company considers fair and appropriate.

(ii) If only a portion of a Note is subject to Redemption and such Note is Converted in part, then the Converted portion of such Note will be deemed to be from the portion of such Note that was subject to Redemption.

(I) *Payment of the Redemption Price*. Without limiting the Company's obligation to deposit the Redemption Price by the time prescribed by **Section 3.01(B)**, the Company will cause the Redemption Price for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date. For the avoidance of doubt, interest payable pursuant to the proviso to the first sentence of **Section 4.03(F)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso.

(J) *Special Provisions for Partial Calls*. If the Company elects to redeem less than all of the outstanding Notes pursuant to a Provisional Redemption, and the Holder of any Note, or any owner of a beneficial interest in any Global Note, is reasonably not able to determine, before the Close of Business on the sixty-second (62nd) Scheduled Trading Day (or, if, in accordance with **Section 5.03(A)(i)(3)**, the Company has elected to settle all Conversions of Notes with a Conversion Date that occurs on or after the Redemption Notice Date for such Redemption and on or before the second (2nd) Business Day immediately before the Redemption Date by Physical Settlement, the tenth (10th) calendar day) immediately before the Redemption Date for such Provisional Redemption, whether such Note or beneficial interest, as applicable, is to be redeemed pursuant to such Provisional Redemption, then such Holder or owner, as applicable, will be entitled to Convert such Note or beneficial interest, as applicable, at any time before the Close of Business on the second (2nd) Business Day immediately before such Redemption Date, and each such Conversion will be deemed to be of a Note called for Provisional Redemption for purposes of this **Section 4.03** and **Sections 5.01(C)(i)(4)** and **5.07**.

(K) *Repurchases or Other Acquisitions Other Than by Redemption Not Affected*. For the avoidance of doubt, nothing in this **Section 4.03** will limit or otherwise apply to any repurchase or other acquisition, by the Company or its Affiliates, or any other Person, of any Notes not by Redemption (including in open market transactions, private or public tender or exchange offers or otherwise).

ARTICLE V.
THE CONVERSION OF NOTES

SECTION 5.01. RIGHT TO CONVERT.

(A) *Generally*. Subject to the provisions of this **Article 5**, each Holder may, at its option, Convert such Holder's Notes into Conversion Consideration.

(B) *Conversions in Part*. Subject to the terms of this Indenture, Notes may be Converted in part, but only in Authorized Denominations. Provisions of this **Article 5** applying to the Conversion of a Note in whole will equally apply to Conversions of a permitted portion of a Note.

(C) *When Notes May Be Converted*.

(i) *Generally*. Subject to **Section 5.01(C)(ii)**, a Note may be Converted only in the following circumstances:

(1) *Conversion Upon Satisfaction of Common Shares Sale Price Condition*. A Holder may Convert its Notes during any calendar quarter (and only during such calendar quarter) commencing after the calendar quarter ending on December 31, 2026, if the Last Reported Sale Price per Common Share exceeds one hundred and thirty percent (130%) of the Conversion Price for each of at least twenty (20) Trading Days (whether or not consecutive) during the thirty (30) consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding calendar quarter.

(2) *Conversion Upon Satisfaction of Note Trading Price Condition*. A Holder may Convert its Notes during the five (5) consecutive Business Days immediately after any ten (10) consecutive Trading Day period (such ten (10) consecutive Trading Day period, the "**Measurement Period**") if the Trading Price per $1,000 principal amount of Notes, as determined following a request by a Holder in accordance with the procedures set forth below, for each Trading Day of the Measurement Period was less than ninety eight percent (98%) of the product of the Last Reported Sale Price per Common Share on such Trading Day and the Conversion Rate on such Trading Day. The condition set forth in the preceding sentence is referred to in this Indenture as the "**Trading Price Condition**."

The Trading Price will be determined by the Bid Solicitation Agent pursuant to this **Section 5.01(C)(i)(2)** and the definition of "Trading Price." The Bid Solicitation Agent (if not the Company) will have no obligation to determine the Trading Price of the Notes unless the Company has requested such determination in writing, and the Company will have no obligation to make such request (or seek bids itself) unless a Holder holding at least three million dollars ($3,000,000) in aggregate principal amount of the Notes (or such lesser principal amount of Notes as may then be outstanding) provides the Company with reasonable evidence that the Trading Price per $1,000 principal amount of Notes would be less than ninety eight percent (98%) of the product of the Last Reported Sale Price per Common Share and the Conversion Rate. If a Holder provides such evidence, then the Company will (if acting as Bid Solicitation Agent), or will instruct the Bid Solicitation Agent to, determine the Trading Price of the Notes beginning on the next Trading Day and on each successive Trading Day until the Trading Price per $1,000 principal amount of Notes is greater than or equal to ninety eight percent (98%) of the product of the Last Reported Sale Price per Common Share on such Trading Day and the Conversion Rate on such Trading Day. If the Trading Price Condition has been met as set forth above, then the Company will notify the Holders, the Trustee and the Conversion Agent of the same. If, on any Trading Day after the Trading Price Condition has been met as set forth above, the Trading Price per $1,000 principal amount of Notes is greater than or equal to ninety eight percent (98%) of the product of the Last Reported Sale Price per Common Share on such Trading Day and the Conversion Rate on such Trading Day, then the Company will notify the Holders, the Trustee and the Conversion Agent of the same.

(3) *Conversion Upon Specified Corporate Events*.

(a) *Certain Distributions*. If, before May 15, 2033, the Company elects to:

(I) distribute, to all or substantially all holders of Common Shares, any rights, options or warrants (other than rights issued pursuant to a shareholder rights plan, so long as such rights have not separated from the Common Shares and are not exercisable until the occurrence of a triggering event, except that such rights will be deemed to be distributed under this **clause (I)** upon their separation from the Common Shares or upon the occurrence of such triggering event) entitling them, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase Common Shares at a price per share that is less than the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced (determined in the manner set forth in the third paragraph of **Section 5.05(A)(ii)**); or

(II) distribute, to all or substantially all holders of Common Shares, assets or securities of the Company or rights to purchase the Company's securities, which distribution per Common Share has a value, as reasonably determined by the Board of Directors, exceeding ten percent (10%) of the Last Reported Sale Price per Common Share on the Trading Day immediately before the date such distribution is announced,

then, in either case, (x) the Company will send notice of such distribution, and of the related right to Convert Notes, to Holders, the Trustee and the Conversion Agent at least sixty-five (65) Scheduled Trading Days before the Ex-Dividend Date for such distribution (or, if later in the case of any such separation of rights issued pursuant to a shareholder rights plan or the occurrence of any such triggering event under a shareholder rights plan, as soon as reasonably practicable after the Company becomes aware that such separation or triggering event has occurred or will occur); and (y) once the Company has sent such notice, Holders may Convert their Notes at any time until the earlier of the Close of Business on the Business Day immediately before such Ex-Dividend Date and the Company's announcement that such distribution will not take place; *provided*, *however*, that the Notes will not become Convertible pursuant to **clause (y)** above (but the Company will be required to send notice of such distribution pursuant to **clause (x)** above) on account of such distribution if each Holder participates, at the same time and on the same terms as holders of Common Shares, and solely by virtue of being a Holder, in such distribution without having to Convert such Holder's Notes and as if such Holder held a number of Common Shares equal to the product of (i) the Conversion Rate in effect on the record date for such distribution; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such record date; *provided*, *further*, that if the Company is then otherwise permitted to settle Conversions of Notes by Physical Settlement (and, for the avoidance of doubt, the Company has not elected another Settlement Method to apply, including pursuant to **Section 5.03(A)(i)(1)**), then the Company may instead elect to provide such notice at least ten (10) Scheduled Trading Days before such Ex-Dividend Date, in which case (x) the Company must settle all Conversions of Notes with a Conversion Date occurring on or after the date the Company provides such notice and on or before the Business Day immediately before the Ex-Dividend Date for such distribution (or any earlier announcement by the Company that such distribution will not take place) by Physical Settlement; and (y) such notice must state that all such Conversions will be settled by Physical Settlement.

(b) *Certain Corporate Events*. If a Fundamental Change, Make-Whole Fundamental Change (other than a Make-Whole Fundamental Change pursuant to **clause (B)** of the definition thereof) or Common Share Change Event occurs (other than a merger or other business combination transaction that is effected solely to change the Company's jurisdiction of incorporation and that does not constitute a Fundamental Change or a Make-Whole Fundamental Change), then, in each case, Holders may Convert their Notes at any time from, and including, the effective date of such transaction or event to, and including, the thirty fifth (35th) Trading Day after such effective date (or, if such transaction or event also constitutes a Fundamental Change (other than an Exempted Fundamental Change), or if such transaction or event is a Termination of Trading in connection with which the Company has elected to offer to repurchase the Notes as described in **Section 7.03**, to, but excluding, the related Fundamental Change Repurchase Date (including a Fundamental Change Repurchase Date that the Company has specified in connection with such an election)); *provided*, *however*, that if the Company does not provide the notice referred to in the immediately following sentence by the second (2nd) Business Day after such effective date, then the last day on which the Notes are Convertible pursuant to this sentence will be extended by the number of Business Days from, and including, the second (2nd) Business Day after such effective date to, but excluding, the date the Company provides such notice. No later than the second (2nd) Business Day after such effective date, the Company will send notice to the Holders, the Trustee and the Conversion Agent of such transaction or event, such effective date and the related right to Convert Notes.

(4) *Conversion Upon Redemption*. If the Company calls any Note for Redemption, then the Holder of such Note may Convert such Note at any time before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full).

(5) *Conversions During Free Convertibility Period*. A Holder may Convert its Notes at any time from, and including, May 15, 2033 until the Close of Business on the second (2nd) Scheduled Trading Day immediately before the Maturity Date.

For the avoidance of doubt, the Notes may become Convertible pursuant to any one or more of the preceding sub-paragraphs of this **Section 5.01(C)(i)** and the Notes ceasing to be Convertible pursuant to a particular sub-paragraph of this **Section 5.01(C)(i)** will not preclude the Notes from being Convertible pursuant to any other sub-paragraph of this **Section 5.01(C)(i)**.

(ii) *Limitations and Closed Periods*. Notwithstanding anything to the contrary in this Indenture or the Notes:

(1) Notes may be surrendered for Conversion only after the Open of Business and before the Close of Business on a day that is a Business Day;

(2) in no event may any Note be Converted after the Close of Business on the second (2nd) Scheduled Trading Day immediately before the Maturity Date;

(3) if the Company calls any Note for Redemption pursuant to **Section 4.03**, then the Holder of such Note may not Convert such Note after the Close of Business on the second (2nd) Business Day immediately before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with this Indenture; and

(4) if a Fundamental Change Repurchase Notice is validly delivered pursuant to **Section 4.02(F)** with respect to any Note, then such Note may not be Converted, except to the extent (a) such Note is not subject to such notice; (b) such notice is withdrawn in accordance with **Section 4.02(F)**; or (c) the Company fails to pay the Fundamental Change Repurchase Price for such Note when required (or a third party fails to make such payment in lieu of the Company in accordance with **Section 4.02(H)**).

SECTION 5.02 CONVERSION PROCEDURES.

(A) *Generally*.

(i) *Global Notes*. To Convert a beneficial interest in a Global Note that is Convertible pursuant to **Section 5.01(C)**, the owner of such beneficial interest must (1) comply with the Depositary Procedures for Converting such beneficial interest (at which time such Conversion will become irrevocable, unless the Company, in its sole and absolute discretion, agrees to permit such owner of such beneficial interest to withdraw such Conversion and such withdrawal is reasonably feasible pursuant to the Depositary Procedures); and (2) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(ii) *Physical Notes*. To Convert all or a portion of a Physical Note that is Convertible pursuant to **Section 5.01(C)**, the Holder of such Note must (1) complete, manually sign and deliver to the Conversion Agent the Conversion Notice attached to such Physical Note or a facsimile of such Conversion Notice; (2) deliver such Physical Note to the Conversion Agent (at which time such Conversion will become irrevocable, unless the Company, in its sole and absolute discretion, agrees to permit such Holder to withdraw such Conversion); (3) furnish any endorsements and transfer documents that the Company or the Conversion Agent may require; and (4) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(B) *Effect of Converting a Note*. At the Close of Business on the Conversion Date for a Note (or any portion thereof) to be Converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **5.02(D)**, upon such Conversion) be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the Close of Business on such Conversion Date), except to the extent provided in **Section 5.02(D)**.

(C) *Holder of Record of Conversion Shares*. The Person in whose name any Common Share is issuable upon Conversion of any Note will be deemed to become the holder of record of such share as of the Close of Business on (i) the Conversion Date for such Conversion, in the case of Physical Settlement; or (ii) the last VWAP Trading Day of the Observation Period for such Conversion, in the case of Combination Settlement.

(D) *Interest Payable Upon Conversion in Certain Circumstances*. If the Conversion Date of a Note is after a Regular Record Date and before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date); and (ii) the Holder surrendering such Note for Conversion must deliver to the Conversion Agent, at the time of such surrender, an amount of cash equal to the amount of such interest referred to in **clause (i)** above; *provided*, *however*, that the Holder surrendering such Note for Conversion need not deliver such cash (v) if the Company has specified a Redemption Date that is after such Regular Record Date and on or before the second (2nd) Business Day immediately after such Interest Payment Date; (w) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (x) if the Company has specified a Fundamental Change Repurchase Date (including a Fundamental Change Repurchase Date that the Company has specified in connection with its election to offer to repurchase the Notes as the sole remedy for an Event of Default arising from a Termination of Trading, pursuant to **Section 7.03**) that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (y) to the extent of any overdue interest or interest that has accrued on any overdue interest. For the avoidance of doubt, as a result of, and without limiting the generality of, the foregoing, if a Note is Converted with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, or immediately before any Redemption Date or Fundamental Change Repurchase Date referred to in the proviso in the preceding sentence, then the Company will pay, as provided above, the interest that would have accrued on such Note to, but excluding, the Maturity Date or other applicable Interest Payment Date, as applicable. For the avoidance of doubt, if the Conversion Date of a Note to be Converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Regular Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for Conversion, need not be accompanied by any cash amount pursuant to the first sentence of this **Section 5.02(D)**.

(E) *Taxes and Duties*. If a Holder Converts a Note, the Company will pay any stamp, issue, registration, documentary, transfer or other taxes or duties, including interest and penalties with respect thereto, due on the issue or delivery of any Common Shares upon such Conversion, except any tax or duty that is due because such Holder requested such shares to be registered in a name other than the Holder's name, in which case the Converting Holder will pay that tax or duty, including interest and penalties with respect thereto, and, until having received a sum sufficient to pay such tax or duty, the Conversion Agent may refuse to deliver any such shares to be issued in a name other than that of such Holder.

(F) *Conversion Agent to Notify Company of Conversions*. If any Note is submitted for Conversion to the Conversion Agent or the Conversion Agent receives any notice of Conversion with respect to a Note, then the Conversion Agent will promptly notify the Company and the Trustee of such occurrence, together with any other information reasonably requested by the Company, and will cooperate with the Company to determine the Conversion Date for such Note.

SECTION 5.03. SETTLEMENT UPON CONVERSION.

(A) *Settlement Method*. Upon the Conversion of any Note, as provided in this **Article 5**, the Company will settle such Conversion by, at the Company's sole discretion (x) delivering Common Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(1)** (a "**Physical Settlement**"); or (y) paying or delivering, as applicable, either (1) solely cash as provided in **Section 5.03(B)(i)(2)** (a "**Cash Settlement**"); or (2) a combination of cash and Common Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(3)** (a "**Combination Settlement**").

(i) *The Company's Right to Elect Settlement Method*. The Company will have the right to elect the Settlement Method applicable to any Conversion of a Note; *provided*, *however*, that:

(1) subject to **clause (3)** below, all Conversions of Notes with a Conversion Date that occurs on or after May 15, 2033 will be settled using the same Settlement Method, and the Company will send notice of such Settlement Method to Holders no later than the Open of Business on May 15, 2033;

(2) subject to **clause (3)** below, if the Company elects a Settlement Method with respect to the Conversion of any Note whose Conversion Date occurs before May 15, 2033, then the Company will send notice of such Settlement Method to the Holder of such Note no later than the Close of Business on the Business Day immediately after such Conversion Date;

(3) if any Notes are called for Redemption, then (a) the Company will specify, in the related Redemption Notice (and, in the case of a Redemption of less than all outstanding Notes, in a notice simultaneously sent to all Holders of Notes not called for Redemption) sent pursuant to **Section 4.03(G)**, the Settlement Method that will apply to all Conversions of Notes with a Conversion Date that occurs on or after the related Redemption Notice Date and on or before the second (2nd) Business Day immediately before the related Redemption Date; and (b) if such Redemption Date occurs on or after August 15, 2033, then such Settlement Method must be the same Settlement Method that, pursuant to **clause (1)** above, applies to all Conversions of Notes with a Conversion Date that occurs on or after August 15, 2033;

(4) the Company will use the same Settlement Method for all Conversions of Notes with the same Conversion Date (and, for the avoidance of doubt, the Company will not be obligated to use the same Settlement Method with respect to Conversions of Notes with different Conversion Dates, except as provided in **clause (1)** or **(3)** above);

(5) if the Company does not timely elect a Settlement Method with respect to the Conversion of a Note, then the Company will be deemed to have elected the Default Settlement Method (and, for the avoidance of doubt, the failure to timely make such election will not constitute a Default or Event of Default);

(6) if the Company timely elects Combination Settlement with respect to the Conversion of a Note but does not timely notify the Holder of such Note of the applicable Specified Dollar Amount, then the Specified Dollar Amount for such Conversion will be deemed to be $1,000 per $1,000 principal amount of Notes (and, for the avoidance of doubt, the failure to timely send such notification will not constitute a Default or Event of Default); and

(7) the Settlement Method will be subject to **Sections 4.03(E)** and **5.01(C)(i)(3)(a)**.

At or before the time the Company sends any notice referred to in the preceding sentence, the Company will send a copy of such notice to the Trustee and the Conversion Agent, but the failure to timely send such copy will not affect the validity of any Settlement Method election.

(ii) *The Company's Right to Irrevocably Fix or Eliminate Settlement Methods*. The Company will have the right, exercisable at its election by sending notice of such exercise to the Holders (with a copy to the Trustee and the Conversion Agent), to (1) irrevocably fix the Settlement Method that will apply to all Conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders; or (2) irrevocably eliminate any one or more (but not all) Settlement Methods (including eliminating Combination Settlement with a particular Specified Dollar Amount or range of Specified Dollar Amounts) with respect to all Conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders, *provided*, in each case, that (v) the Settlement Method so elected pursuant to **clause (1)** above, or the Settlement Method(s) remaining after any elimination pursuant to **clause (2)** above, as applicable, must be a Settlement Method or Settlement Method(s), as applicable, that the Company is then permitted to elect (for the avoidance of doubt, including pursuant to, and subject to, the other provisions of this **Section 5.03(A)**); (w) the Company will be precluded from irrevocably electing Cash Settlement or Combination Settlement pursuant to **clause (1)** above on or before the date that is five (5) years plus one (1) day after the Last Original Issue Date of the Initial Notes; (x) no such irrevocable election or Default Settlement Method change will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to this Indenture (including pursuant to **Section 8.01(G)** or this **Section 5.03(A)**); (y) upon any such irrevocable election pursuant to **clause (1)** above, the Default Settlement Method will automatically be deemed to be set to the Settlement Method so fixed; and (z) upon any such irrevocable election pursuant to **clause (2)** above, the Company will, if needed, simultaneously change the Default Settlement Method to a Settlement Method that is consistent with such irrevocable election. Such notice, if sent, must set forth the applicable Settlement Method(s) so elected or eliminated, as applicable, and the Default Settlement Method applicable immediately after such election, and expressly state that the election is irrevocable and applicable to all Conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders. For the avoidance of doubt, such an irrevocable election, if made, will be effective without the need to amend this Indenture or the Notes, including pursuant to **Section 8.01(G)** (it being understood, however, that the Company may nonetheless choose to execute such an amendment at its option).

(iii) *Requirement to Publicly Disclose the Fixed or Default Settlement Method.* If the Company changes the Default Settlement Method pursuant to **clause (x)** of the proviso to the definition of such term or irrevocably fixes the Settlement Method(s) pursuant to **Section 5.03(A)(ii)**, then the Company will either post the Default Settlement Method or fixed Settlement Method(s), as applicable, on its website or disclose the same in a Current Report on Form 8-K (or any successor form) that is filed with, or furnished to, the SEC.

(B) *Conversion Consideration*.

(i) *Generally*. Subject to **Sections 5.03(B)(ii)**, **5.03(B)(iii)** and **5.09(A)(2)**, the type and amount of consideration (the "**Conversion Consideration**") due in respect of each $1,000 principal amount of a Note to be Converted will be as follows:

(1) if Physical Settlement applies to such Conversion, a number of Common Shares equal to the Conversion Rate in effect on the Conversion Date for such Conversion;

(2) if Cash Settlement applies to such Conversion, cash in an amount equal to the sum of the Daily Conversion Values for each VWAP Trading Day in the Observation Period for such Conversion; or

(3) if Combination Settlement applies to such Conversion, consideration consisting of (a) a number of Common Shares equal to the sum of the Daily Share Amounts for each VWAP Trading Day in the Observation Period for such Conversion; and (b) an amount of cash equal to the sum of the Daily Cash Amounts for each VWAP Trading Day in such Observation Period.

(ii) *Cash in Lieu of Fractional Shares*. If Physical Settlement or Combination Settlement applies to the Conversion of any Note and the number of Common Shares deliverable pursuant to **Section 5.03(B)(i)** upon such Conversion is not a whole number, then such number will be rounded down to the nearest whole number and the Company will deliver, in addition to the other consideration due upon such Conversion, cash in lieu of the related fractional share in an amount equal to the product of (1) such fraction and (2) (x) the Daily VWAP on the Conversion Date for such Conversion (or, if such Conversion Date is not a VWAP Trading Day, the immediately preceding VWAP Trading Day), in the case of Physical Settlement; or (y) the Daily VWAP on the last VWAP Trading Day of the Observation Period for such Conversion, in the case of Combination Settlement.

(iii) *Conversion of Multiple Notes by a Single Holder*. If a Holder Converts more than one (1) Note on a single Conversion Date, then the Conversion Consideration due in respect of such Conversion will (in the case of any Global Note, to the extent permitted by, and practicable under, the Depositary Procedures) be computed based on the total principal amount of Notes Converted on such Conversion Date by such Holder.

(iv) *Notice of Calculation of Conversion Consideration*. If Cash Settlement or Combination Settlement applies to the Conversion of any Note, then the Company will determine the Conversion Consideration due thereupon promptly following the last VWAP Trading Day of the applicable Observation Period and will promptly thereafter send notice to the Trustee and the Conversion Agent of the same and the calculation thereof in reasonable detail. Neither the Trustee nor the Conversion Agent will have any duty to make any such determination.

(C) *Delivery of the Conversion Consideration*. Except as set forth in **Sections 5.05(D)** and **5.09**, the Company will pay or deliver, as applicable, the Conversion Consideration due upon the Conversion of any Note to the Holder as follows: (i) if Cash Settlement or Combination Settlement applies to such Conversion, on or before the second (2nd) Business Day immediately after the last VWAP Trading Day of the Observation Period for such Conversion; and (ii) if Physical Settlement applies to such Conversion, on or before the second (2nd) Business Day immediately after the Conversion Date for such Conversion; *provided*, *however*, that if Physical Settlement applies to the Conversion of any Note with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, then, solely for purposes of such Conversion, (x) the Company will pay or deliver, as applicable, the Conversion Consideration due upon such Conversion on or before the Maturity Date (or, if the Maturity Date is not a Business Day, the next Business Day); and (y) the Conversion Date will instead be deemed to be the second (2nd) Scheduled Trading Day immediately before the Maturity Date.

(D) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Conversion*. If a Holder Converts a Note, then the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note, and, except as provided in **Section 5.02(D)**, the Company's delivery of the Conversion Consideration due in respect of such Conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of, and accrued and unpaid interest, if any, on, such Note to, but excluding the Conversion Date. As a result, except as provided in **Section 5.02(D)**, any accrued and unpaid interest on a Converted Note will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, subject to **Section 5.02(D)**, if the Conversion Consideration for a Note consists of both cash and Common Shares, then accrued and unpaid interest that is deemed to be paid therewith will be deemed to be paid first out of such cash.

SECTION 5.04. RESERVE AND STATUS OF COMMON SHARES ISSUED UPON CONVERSION.

(A) *Stock Reserve*. At all times when any Notes are outstanding, the Company will reserve (out of its authorized and not outstanding Common Shares that are not reserved for other purposes) a number of Common Shares sufficient to permit the Conversion of all then-outstanding Notes, assuming (x) Physical Settlement will apply to such Conversion; and (y) the Conversion Rate is increased by the maximum amount pursuant to which the Conversion Rate may be increased pursuant to **Section 5.07**. To the extent the Company delivers Common Shares held in its treasury in settlement of the Conversion of any Notes, each reference in this Indenture or the Notes to the issuance of Common Shares in connection therewith will be deemed to include such delivery, *mutatis mutandis*.

(B) *Status of Conversion Shares; Listing*. Each Conversion Share, if any, delivered upon Conversion of any Note will be a newly issued or treasury share (except that any Conversion Share delivered by a designated financial institution pursuant to **Section 5.08** need not be a newly issued or treasury share) and will be duly authorized, validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of such Note or the Person to whom such Conversion Share will be delivered). If the Common Shares are then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will use commercially reasonable efforts to cause each Conversion Share, when delivered upon Conversion of any Note, to be admitted for listing on such exchange or quotation on such system.

SECTION 5.05. ADJUSTMENTS TO THE CONVERSION RATE.

(A) *Events Requiring an Adjustment to the Conversion Rate*. The Conversion Rate will be adjusted from time to time as follows:

(i) *Stock Dividends, Splits and Combinations*. If the Company issues solely Common Shares as a dividend or distribution on all or substantially all Common Shares, or if the Company effects a stock split or a stock combination of the Common Shares (in each case excluding an issuance solely pursuant to a Common Share Change Event, as to which **Section 5.09** will apply), then the Conversion Rate will be adjusted based on the following formula:

where:

$CR0$ = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such stock split or stock combination, as applicable;

$CR1$ = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or effective date, as applicable;

$OS0$ = the number of Common Shares outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, stock split or stock combination; and

$OS1$ = the number of Common Shares outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

If any dividend, distribution, stock split or stock combination of the type described in this **Section 5.05(A)(i)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Rate that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(ii) *Rights, Options and Warrants*. If the Company distributes, to all or substantially all holders of Common Shares, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a shareholder rights plan, as to which **Sections 5.05(A)(iii)(1)** and **5.05(F)** will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase Common Shares at a price per share that is less than the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

where:

*CR*0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

*CR*1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

OS = the number of Common Shares outstanding immediately before the Open of Business on such Ex-Dividend Date;

X = the total number of Common Shares issuable pursuant to such rights, options or warrants; and

Y = a number of Common Shares obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

To the extent such rights, options or warrants are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of only the rights, options or warrants, if any, actually distributed. In addition, to the extent that Common Shares are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of Common Shares actually delivered upon exercise of such rights, options or warrants.

For purposes of this **Section 5.05(A)(ii)** and **Section 5.01(C)(i)(3)(a)(I)**, in determining whether any rights, options or warrants entitle holders of Common Shares to subscribe for or purchase Common Shares at a price per share that is less than the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Company in good faith and in a commercially reasonable manner.

(iii) *Spin-Offs and Other Distributed Property*.

(1) *Distributions Other than Spin-Offs*. If the Company distributes its Capital Shares, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Shares of the Company or other securities, to all or substantially all holders of the Common Shares, excluding:

(u) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(i)** or **5.05(A)(ii)**;

(v) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iv)**;

(w) rights issued or otherwise distributed pursuant to a shareholder rights plan, except to the extent provided in **Section 5.05(F)**;

(x) Spin-Offs for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iii)(2)**;

(y) a distribution solely pursuant to a tender offer or exchange offer for Common Shares, as to which **Section 5.05(A)(v)** will apply; and

(z) a distribution solely pursuant to a Common Share Change Event, as to which **Section 5.09** will apply, then the Conversion Rate will be increased based on the following formula:

where:

*CR*0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

*CR*1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (as determined by the Company in good faith and in a commercially reasonable manner), as of such Ex-Dividend Date, of the Capital Shares, evidences of indebtedness, assets, property, rights, options or warrants distributed per Common Share pursuant to such distribution;

provided, *however*, that if *FMV* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each $1,000 principal amount of Notes held by such Holder on the record date for such distribution, at the same time and on the same terms as holders of Common Shares, and without having to Convert its Notes, the amount and kind of Capital Shares, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of Common Shares equal to the Conversion Rate in effect on such record date.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(2) *Spin-Offs*. If the Company distributes or dividends Capital Shares of any class or series, or similar equity interests, of or relating to an Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Shares (other than solely pursuant to (x) a Common Share Change Event, as to which **Section 5.09** will apply; or (y) a tender offer or exchange offer for Common Shares, as to which **Section 5.05(A)(v)** will apply), and such Capital Shares or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Rate will be increased based on the following formula:

where:

*CR*0 = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Spin-Off Valuation Period for such Spin-Off;

*CR*1 = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Spin-Off Valuation Period;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Shares or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, the Ex-Dividend Date for such Spin-Off (such average to be determined as if references to Common Shares in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Shares or equity interests); and (y) the number of shares or units of such Capital Shares or equity interests distributed per Common Share in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per Common Share for each Trading Day in the Spin-Off Valuation Period.

Notwithstanding anything to the contrary in this **Section 5.05(A)(iii)(2)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose Conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such Conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose Conversion will be settled pursuant to Physical Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Consideration for such Conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such Conversion Date.

To the extent any dividend or distribution of the type set forth in this **Section 5.05(A)(iii)(2)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(iv) *Cash Dividends or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of Common Shares, then the Conversion Rate will be increased based on the following formula:

where:

$CR0$ = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

$CR1$ = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per Common Share on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per Common Share in such dividend or distribution;

provided, *however*, that if D is equal to or greater than SP, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each $1,000 principal amount of Notes held by such Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Common Shares, and without having to Convert its Notes, the amount of cash that such Holder would have received in such dividend or distribution if such Holder had owned, on such record date, a number of Common Shares equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(v) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for Common Shares (other than solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act), and the value (determined as of the Expiration Time by the Company in good faith and in a commercially reasonable manner) of the cash and other consideration paid per Common Share in such tender or exchange offer exceeds the Last Reported Sale Price per Common Share on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

where:

$CR0$ = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period for such tender or exchange offer;

$CR1$ = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period;

AC = the aggregate value (determined as of the time (the "**Expiration Time**") such tender or exchange offer expires by the Company in good faith and in a commercially reasonable manner) of all cash and other consideration paid for Common Shares purchased or exchanged in such tender or exchange offer;

$OS0$ = the number of Common Shares outstanding immediately before the Expiration Time (including all Common Shares accepted for purchase or exchange in such tender or exchange offer);

$OS1$ = the number of Common Shares outstanding immediately after the Expiration Time (excluding all Common Shares accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices per Common Share over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, *however*, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 5.05(A)(v)**, except to the extent provided in the immediately following paragraph. Notwithstanding anything to the contrary in this **Section 5.05(A)(v)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose Conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such Conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date for such tender or exchange offer to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose Conversion will be settled pursuant to Physical Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Consideration for such Conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date to, and including, such Conversion Date.

To the extent such tender or exchange offer is announced but not consummated (including as a result of being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of Common Shares in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of Common Shares, if any, actually made, and not rescinded, in such tender or exchange offer.

(B) *No Adjustments in Certain Cases*.

(i) *Where Holders Participate in the Transaction or Event Without Conversion*. Notwithstanding anything to the contrary in **Section 5.05(A)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)** (other than a stock split or combination of the type set forth in **Section 5.05(A)(i)** or a tender or exchange offer of the type set forth in **Section 5.05(A)(v)**) if each Holder participates, at the same time and on the same terms as holders of Common Shares, and solely by virtue of being a Holder of Notes, in such transaction or event without having to Convert such Holder's Notes and as if such Holder held a number of Common Shares equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such date.

(ii) *Certain Events*. The Company will not be required to adjust the Conversion Rate except as provided in **Section 5.05** or **Section 5.07**. Without limiting the foregoing, the Company will not be obligated to adjust the Conversion Rate on account of:

(1) except as otherwise provided in **Section 5.05**, the sale of Common Shares for a purchase price that is less than the market price per Common Share or less than the Conversion Price;

(2) the issuance of any Common Shares pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Common Shares under any such plan;

(3) the issuance of any Common Shares or options or rights to purchase Common Shares pursuant to any present or future employee, director or consultant benefit plan or incentive plan or program (including pursuant to any evergreen plan) of, or assumed by, the Company or any of its Subsidiaries;

(4) the issuance of any Common Shares pursuant to any option, warrant, right or convertible or exchangeable security of the Company not described in **clause (3)** above and outstanding as of the Issue Date;

(5) for a third-party tender offer by any party other than a tender offer by the Company or one or more of its Subsidiaries as described in **Section 5.05(A)(v)** above;

(6) upon the repurchase of any Common Shares pursuant to an open market share purchase program or other buy-back transaction, including structured or derivative transactions such as accelerated share repurchase transactions or similar forward derivatives, or other buy-back transactions, in each case that are not a tender offer or exchange offer of the kind described in **Section 5.05(A)(v)** above;

(7) solely a change in the par value of the Common Shares; or

(8) accrued and unpaid interest on the Notes.

(C) *Adjustment Deferral*. If an adjustment to the Conversion Rate otherwise required by this **Article 5** would result in a change of less than one percent (1%) to the Conversion Rate, then, notwithstanding anything to the contrary in this **Article 5**, the Company may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (i) when all such deferred adjustments would result in a change of at least one percent (1%) to the Conversion Rate; (ii) the Conversion Date of, or any VWAP Trading Day of an Observation Period for, any Note; (iii) the date a Fundamental Change or Make-Whole Fundamental Change occurs; (iv) the date the Company calls any Notes for Redemption; and (v) August 15, 2033.

(D) *Adjustments Not Yet Effective*. Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Note is to be Converted and Physical Settlement or Combination Settlement applies to such Conversion;

(ii) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to **Section 5.05(A)** has occurred on or before the Conversion Date for such Conversion (in the case of Physical Settlement) or on or before any VWAP Trading Day in the Observation Period for such Conversion (in the case of Combination Settlement), but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date or VWAP Trading Day, as applicable;

(iii) the Conversion Consideration due upon such Conversion includes any whole Common Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Common Shares (in the case of Combination Settlement); and

(iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise), then, solely for purposes of such Conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date (in the case of Physical Settlement) or such VWAP Trading Day (in the case of Combination Settlement). In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such Conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such Conversion until the second (2nd) Business Day after such first date.

(E) *Conversion Rate Adjustments Where Converting Holders Participate in the Relevant Transaction or Event*. Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to **Section 5.05(A)**;

(ii) a Note is to be Converted pursuant to Physical Settlement or Combination Settlement;

(iii) the Conversion Date for such Conversion (in the case of Physical Settlement) or any VWAP Trading Day in the Observation Period for such Conversion (in the case of Combination Settlement) occurs on or after such Ex-Dividend Date and on or before the related record date;

(iv) the Conversion Consideration due upon such Conversion includes any whole Common Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Common Shares (in the case of Combination Settlement), in each case based on a Conversion Rate that is adjusted for such dividend or distribution; and

(v) such shares would be entitled to participate in such dividend or distribution (including pursuant to **Section 5.02(C)**), then (x) in the case of Physical Settlement, such Conversion Rate adjustment will not be given effect for such Conversion and the Common Shares issuable upon such Conversion based on such unadjusted Conversion Rate will not be entitled to participate in such dividend or distribution, but there will be added, to the Conversion Consideration otherwise due upon such Conversion, the same kind and amount of consideration that would have been delivered in such dividend or distribution with respect to such Common Shares had such shares been entitled to participate in such dividend or distribution; and (y) in the case of Combination Settlement, the Conversion Rate adjustment relating to such Ex-Dividend Date will be made for such Conversion in respect of such VWAP Trading Day, but the Common Shares issuable with respect to such VWAP Trading Day based on such adjusted Conversion Rate will not be entitled to participate in such dividend or distribution.

(F) *Shareholder Rights Plans*. If any Common Shares are to be issued upon Conversion of any Note and, at the time of such Conversion, the Company has in effect any shareholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise payable under this Indenture upon such Conversion, the rights set forth in such shareholder rights plan, unless such rights have separated from the Common Shares at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 5.05(A)(iii)(1)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Common Shares, subject to potential readjustment in accordance with the last paragraph of **Section 5.05(A)(iii)(1)**.

(G) *Limitation on Effecting Transactions Resulting in Certain Adjustments*. The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted pursuant to **Section 5.05(A)** or **Section 5.07** to an amount that would result in the Conversion Price per Common Share being less than the par value per Common Share.

(H) *Equitable Adjustments to Prices*. Whenever any provision of this Indenture requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate the Share Price or an adjustment to the Conversion Rate), or to calculate Daily VWAPs, Daily Conversion Values, Daily Cash Amounts or Daily Share Amounts over an Observation Period, the Company will, if appropriate, make proportionate adjustments to such calculations to account for any adjustment to the Conversion Rate pursuant to **Section 5.05(A)** that becomes effective, or any event requiring such an adjustment to the Conversion Rate where the Ex-Dividend Date or effective date, as applicable, of such event occurs, at any time during such period or Observation Period, as applicable.

(I) *Calculation of Number of Outstanding Shares of Common Shares*. For purposes of **Section 5.05(A)**, the number of Common Shares outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of Common Shares; and (ii) exclude Common Shares held in the Company's treasury (unless the Company pays any dividend or makes any distribution on Common Shares held in its treasury).

(J) *Calculations*. All calculations with respect to the Conversion Rate and adjustments thereto will be made to the nearest 1/10,000th of a Common Share (with 5/100,000ths rounded upward).

(K) *Notice of Conversion Rate Adjustments*. Upon the effectiveness of any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, the Company will promptly send notice to the Holders, the Trustee and the Conversion Agent containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

SECTION 5.06. VOLUNTARY ADJUSTMENTS.

(A) *Generally*. To the extent permitted by law and applicable stock exchange rules, the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if (i) the Board of Directors determines that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Common Shares or rights to purchase Common Shares as a result of any dividend or distribution of shares (or rights to acquire shares) of Common Shares or any similar event; (ii) such increase is in effect for a period of at least twenty (20) Business Days; and (iii) such increase is irrevocable during such period.

(B) *Notice of Voluntary Increases*. If the Board of Directors determines to increase the Conversion Rate pursuant to **Section 5.06(A)**, then, no later than the first Business Day of the related twenty (20) Business Day period referred to in **Section 5.06(A)**, the Company will send notice to each Holder, the Trustee and the Conversion Agent of such increase, the amount thereof and the period during which such increase will be in effect.

SECTION 5.07. ADJUSTMENTS TO THE CONVERSION RATE IN CONNECTION WITH A MAKE-WHOLE FUNDAMENTAL CHANGE.

(A) *Generally*. If a Make-Whole Fundamental Change occurs and the Conversion Date for the Conversion of a Note occurs during the related Make-Whole Fundamental Change Conversion Period, then, subject to this **Section 5.07**, the Conversion Rate applicable to such Conversion will be increased by a number of shares (the "**Additional Shares**") set forth in the table below corresponding (after interpolation as provided in, and subject to, the provisions below) to the Make-Whole Fundamental Change Effective Date and the Share Price of such Make-Whole Fundamental Change:

	Stock Price												
Make-Whole Fundamental Change Effective Date	**$5.10**	**$6.50**	**$8.45**	**$10.00**	**$12.50**	**$15.00**	**$17.50**	**$20.00**	**$25.00**	**$30.00**	**$35.000**	**$40.00**	**$50.00**
August 13, 2026	42.2914	34.9662	24.1432	18.8900	13.2312	9.4647	6.7949	4.8365	2.2808	0.8740	0.2691	0.0348	-
August 15, 2027	42.2914	31.7615	21.7077	16.9890	11.9400	8.5793	6.1886	4.4250	2.0996	0.8033	0.2503	0.0348	-
August 15, 2028	42.2914	28.2969	19.0284	14.8910	10.5064	7.5887	5.5069	3.9615	1.9000	0.7300	0.2180	0.0240	-
August 15, 2029	42.2914	26.0123	16.0000	12.5140	8.8624	6.4333	4.6966	3.4010	1.6496	0.6340	0.1771	0.0055	-
August 15, 2030	42.2914	24.1031	13.8899	9.8560	7.0072	5.1120	3.7554	2.7390	1.3480	0.5190	0.1369	-	-
August 15, 2031	42.2914	21.2185	11.0012	7.4460	4.9256	3.6107	2.6686	1.9620	0.9832	0.3813	0.0929	-	-
August 15, 2032	42.2914	16.3323	6.5432	4.1050	2.6048	1.9187	1.4280	1.0595	0.5452	0.2167	0.0494	-	-
August 15, 2033	42.2914	0.0585	-	-	-	-	-	-	-	-	-	-	-

If such Make-Whole Fundamental Change Effective Date or Share Price is not set forth in the table above, then:

(i) if such Share Price is between two Share Prices in the table above or the Make-Whole Fundamental Change Effective Date is between two dates in the table above, then the number of Additional Shares will be determined by straight-line interpolation between the numbers of Additional Shares set forth for the higher and lower Share Prices in the table above or the earlier and later dates in the table above, based on a 365- or 366-day year, as applicable; and

(ii) if the Share Price is greater than $50.00 (subject to adjustment in the same manner as the Share Prices set forth in the column headings of the table above are adjusted pursuant to **Section 5.07(B)**), or less than $5.10 (subject to adjustment in the same manner), per share, then no Additional Shares will be added to the Conversion Rate.

Notwithstanding anything to the contrary in this Indenture or the Notes, in no event will the Conversion Rate be increased to an amount that exceeds 196.0784 Common Shares per $1,000 principal amount of Notes, which amount is subject to adjustment in the same manner as, and at the same time and for the same events for which, the Conversion Rate is required to be adjusted pursuant to **Section 5.05(A)**.

For the avoidance of doubt, but subject to **Section 4.03(J)**, (x) the sending of a Redemption Notice for a Provisional Redemption will constitute a Make-Whole Fundamental Change only with respect to the Notes called (or deemed to be called pursuant to **Section 4.03(J)**) for Provisional Redemption pursuant to such Redemption Notice, and not with respect to any other Notes; and (y) the Conversion Rate applicable to the Notes not so called (or deemed to be called pursuant to **Section 4.03(J)**) for Provisional Redemption will not be subject to increase pursuant to this **Section 5.07** on account of such Redemption Notice.

(B) *Adjustment of Share Prices and Number of Additional Shares*. The Share Prices in the first row (*i.e.*, the column headers) of the table set forth in **Section 5.07(A)** will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Price is adjusted as a result of the operation of **Section 5.05(A)**. The numbers of Additional Shares in the table set forth in **Section 5.07(A)** will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Rate is adjusted pursuant to **Section 5.05(A)**.

(C) *Notice of the Occurrence of a Make-Whole Fundamental Change*. The Company will notify the Holders, the Trustee and the Conversion Agent of each Make-Whole Fundamental Change (i) occurring pursuant to **clause (A)** of the definition thereof in accordance with **Section 5.01(C)(i)(3)(b)**; and (ii) occurring pursuant to **clause (B)** of the definition thereof in accordance with **Section 4.03(G)**.

SECTION 5.08. EXCHANGE IN LIEU OF CONVERSION.

Notwithstanding anything to the contrary in this **Article 5**, and subject to the terms of this **Section 5.08**, if a Note is submitted for Conversion, the Company may elect to arrange to have such Note exchanged in lieu of Conversion by a financial institution designated by the Company. To make such election, the Company must send notice of such election to the Holder of such Note, the Trustee and the Conversion Agent before the Close of Business on the Business Day immediately following the Conversion Date for such Note. If the Company has made such election, then:

(A) no later than the Business Day immediately following such Conversion Date, the Company must deliver (or cause the Conversion Agent to deliver) such Note, together with delivery instructions for the Conversion Consideration due upon such Conversion (including wire instructions, if applicable), to a financial institution designated by the Company that has agreed to deliver such Conversion Consideration in the manner and at the time the Company would have had to deliver the same pursuant to this **Article 5**;

(B) if such Note is a Global Note, then (i) such designated institution will send written confirmation to the Conversion Agent promptly after wiring the cash Conversion Consideration, if any, and delivering any other Conversion Consideration, due upon such Conversion to the Holder of such Note; and (ii) the Conversion Agent will as soon as reasonably practicable thereafter contact such Holder's custodian with the Depositary to confirm receipt of the same; and

(C) such Note will not cease to be outstanding by reason of such exchange in lieu of Conversion;

provided, *however*, that if such financial institution does not accept such Note or fails to timely deliver such Conversion Consideration, then the Company will be responsible for delivering such Conversion Consideration in the manner and at the time provided in this **Article 5** as if the Company had not elected to make an exchange in lieu of Conversion.

SECTION 5.09. EFFECT OF COMMON SHARE CHANGE EVENT.

(A) *Generally*. If there occurs any:

(i) recapitalization, reclassification or change of the Common Shares (other than (x) changes solely resulting from a subdivision or combination of the Common Shares, (y) a change only in par value or from par value to no par value or no par value to par value and (z) stock splits and stock combinations that do not involve the issuance of any other series or class of securities);

(ii) consolidation, merger, combination, binding or statutory share exchange involving the Company;

(iii) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(iv) other similar event, and, as a result of which, the Common Shares are converted into, or are exchanged for, or represent solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a "**Common Share Change Event**," and such other securities, cash or property, the "**Reference Property**," and the amount and kind of Reference Property that a holder of one (1) Common Share would be entitled to receive on account of such Common Share Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a "**Reference Property Unit**"), then, notwithstanding anything to the contrary in this Indenture or the Notes,

(1) from and after the effective time of such Common Share Change Event, (I) the Conversion Consideration due upon Conversion of any Note, and the conditions to any such Conversion, will be determined in the same manner as if each reference to any number of Common Shares in this **Article 5** (or in any related definitions) were instead a reference to the same number of Reference Property Units; (II) for purposes of **Section 4.03(B)**, each reference to any number of Common Shares in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (III) for purposes of the definitions of "Fundamental Change," "Make-Whole Fundamental Change" and "Termination of Trading," references to "Common Shares" and the Company's "common equity" will be deemed to refer to the common equity (including depositary receipts representing common equity), if any, forming part of such Reference Property;

(2) if such Reference Property Unit consists entirely of cash, then (I) each Conversion of any Note with a Conversion Date that occurs on or after the effective date of such Common Share Change Event will be settled entirely in cash in an amount, per $1,000 principal amount of such Note being Converted, equal to the product of (x) the Conversion Rate in effect on such Conversion Date (including, for the avoidance of doubt, any increase to such Conversion Rate pursuant to **Section 5.07**, if applicable); and (y) the amount of cash constituting such Reference Property Unit; and (II) the Company will settle each such Conversion no later than the tenth (10th) Business Day after the relevant Conversion Date; and

(3) for these purposes, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of "Daily VWAP," substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith and in a commercially reasonable manner by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of shareholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per Common Share, by the holders of Common Shares. The Company will notify Holders, the Trustee and the Conversion Agent of such weighted average as soon as practicable after such determination is made.

Subject to the last sentence of this paragraph, at or before the effective time of such Common Share Change Event, the Company and the resulting, surviving or transferee Person (if not the Company) of such Common Share Change Event (the "**Successor Person**") will execute and deliver to the Trustee a supplemental indenture pursuant to **Section 8.01(F)**, which supplemental indenture will (x) provide for subsequent Conversions of Notes in the manner set forth in this **Section 5.09**; (y) provide for subsequent adjustments to the Conversion Rate pursuant to **Section 5.05(A)** in a manner consistent with this **Section 5.09**; and (z) contain such other provisions, if any, that the Company reasonably determines are appropriate to preserve the economic interests of the Holders and to give effect to the provisions of this **Section 5.09(A)**. If the Reference Property includes shares of stock or other securities or assets (other than cash) of a Person other than the Successor Person, then such other Person will also execute such supplemental indenture and such supplemental indenture will contain such additional provisions, if any, that the Company reasonably determines are appropriate to preserve the economic interests of the Holders. Notwithstanding anything to the contrary in this paragraph, no such supplemental indenture is required (but the Company may nonetheless choose to execute such a supplemental indenture at its option) if (x) the Company is the resulting, surviving or transferee Person of such Common Share Change Event; and (y) the Reference Property of such Common Share Change Event does not include consideration other than cash or securities of the Company.

(B) *Notice of Common Share Change Events*. The Company will provide notice of each Common Share Change Event to Holders, the Trustee and the Conversion Agent in the manner set forth in **Section 5.01(C)(i)(3)(b)** (or, in the case of a Common Share Change Event that satisfies the provision set forth in the second parenthetical in **Section 5.01(C)(i)(3)(b)**, no later than the second (2nd) Business Day after the effective date of such Common Share Change Event).

(C) *Compliance Covenant*. The Company will not become a party to any Common Share Change Event unless its terms are consistent with this **Section 5.09**.

SECTION 5.10. OWNERSHIP LIMITATION.

(A) Notwithstanding the provisions of **Section 5.01**, a Holder will not have the right to voluntarily Convert all or any portion of the Notes, and will not be entitled to receive Common Shares in exchange therefor, if (but only to the extent that) upon and after giving effect to such Conversion (and issuance of any Common Shares in satisfaction of any Fundamental Change or Make-Whole Fundamental Change, as the case may be), and taking into account the Settlement Method elected by (or deemed to have been elected by) the Company under **Section 5.03**, such Holder (together with such Holder's Affiliated Parties (including shares held by any "group" of which the Holder or any of its Affiliates and any other persons or entities whose beneficial ownership of Common Shares would be aggregated with the Holder's for purposes of Section 13(d) of the Exchange Act (the "**Affiliated Parties**") (including shares held by any "group" of which the Holder or any of its Affiliated Parties is a member)) would have beneficial ownership (as determined in accordance with Rule 13d-3 under the Exchange Act) of more than 9.9% of the total number of Common Shares then issued and outstanding (the "**Ownership Limitation**"); *provided*, that, a Holder may, at its option and upon not less than sixty-one (61) days' prior notice to the Company, elect to increase the Ownership Limitation up to 19.99% of the total number of Common Shares then issued and outstanding. Any such increase will not be effective until the sixty-first (61st) day after such notice is delivered to the Company. The Company hereby covenants and agrees not to adopt any shareholder rights plan or take any other action which would have the effect of restricting or adversely affecting the Holder's election to change such threshold percentage. When submitting any Conversion Notice in accordance with the Depositary Procedures, such holder will be deemed to represent and warrant that such Conversion will not result in a breach of the Ownership Limitation.

The Trustee and the Conversion Agent will have no obligation to monitor a Holder's beneficial ownership of Common Shares or the Ownership Limitation and will have no liability for Conversions made by beneficial owners exceeding the Ownership Limitation.

(B) For the avoidance of doubt, if a Holder, pursuant to **Section 5.01(A)**, purports to Convert the principal amount of any Notes into Common Shares hereunder and any delivery otherwise owed to such Holder hereunder is not made, in whole or in part, as a result of the Ownership Limitation or any other limitation set forth herein, then such Holder's rights under the relevant Notes, or portion thereof, pursuant to which such delivery was not made will not be extinguished and, instead, such Notes, or portion thereof, will be deemed to have never been Converted.

ARTICLE VI.
SUCCESSORS

SECTION 6.01. WHEN THE COMPANY MAY MERGE, ETC.

(A) *Generally*. The Company will not consolidate with or merge with or into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise transfer, in one transaction or a series of transactions, all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to another Person (a "**Business Combination Event**"), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is a corporation (or, if such Business Combination Event is an Exempted Fundamental Change, is a corporation, limited liability company, limited partnership or other similar entity) (such corporation, limited liability company, limited partnership or other similar entity, as applicable, the "**Successor Entity**") duly organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Business Combination Event, a supplemental indenture pursuant to **Section 8.01(E)**) all of the Company's obligations under this Indenture and the Notes; and

(ii) immediately after giving effect to such Business Combination Event, no Default or Event of Default will have occurred and be continuing.

(B) *Delivery of Officer's Certificate and Opinion of Counsel to the Trustee*. At or before the effective time of any Business Combination Event, the Company will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(A)**; and (ii) all conditions precedent to such Business Combination Event provided in this Indenture have been satisfied.

SECTION 6.02. SUCCESSOR ENTITY SUBSTITUTED.

At the effective time of any Business Combination Event that complies with **Section 6.01**, the Successor Entity (if not the Company) will succeed to, and may exercise every right and power of, the Company under this Indenture and the Notes with the same effect as if such Successor Entity had been named as the Company in this Indenture and the Notes, and, except in the case of a lease, the predecessor Company will be discharged from its obligations under this Indenture and the Notes.

SECTION 6.03. EXCLUSION FOR ASSET TRANSFERS WITH WHOLLY OWNED SUBSIDIARIES.

Notwithstanding anything to the contrary in this **Article 6**, this **Article 6** will not apply to any transfer of assets between or among the Company and any one or more of its Wholly Owned Subsidiaries not effected by merger or consolidation.

ARTICLE VII.
DEFAULTS AND REMEDIES

SECTION 7.01. EVENTS OF DEFAULT.

(A) *Definition of Events of Default*. "**Event of Default**" means the occurrence of any of the following:

(i) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any Note;

(ii) a default for thirty (30) consecutive days in the payment when due of interest on any Note;

(iii) the Company's failure to deliver, when required by this Indenture, a Fundamental Change Notice, or a notice pursuant to **Section 5.01(C)(i)(3)**, if (in the case of any notice other than a notice pursuant to **Section 5.01(C)(i)(3)(a)**) such failure is not cured within three (3) Business Days after its occurrence;

(iv) a default in the Company's obligation to Convert a Note in accordance with **Article 5** upon the exercise of the Conversion right with respect thereto, if such default is not cured within three (3) days after its occurrence;

(v) a default in the Company's obligations under **Article 6**;

(vi) a Termination of Trading has occurred and a period of at least twenty (20) consecutive calendar days has elapsed since the date such Termination of Trading has first occurred (regardless of whether such Termination of Trading has been cured during such period or ceases to exist at the end of such period or at any time thereafter), subject to **Section 7.03**;

(vii) a default in any of the Company's obligations or agreements under this Indenture or the Notes (other than a default set forth in **clause (i)**, **(ii)**, **(iii)**, **(iv)**, **(v)** or **(vi)** of this **Section 7.01(A)**) where such default is not cured or waived within sixty (60) days after written notice to the Company by the Trustee, or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, which notice must specify such default, demand that it be remedied and state that such notice is a "Notice of Default";

(viii) a default by the Company or any of the Company's Significant Subsidiaries with respect to any one or more mortgages, agreements or other instruments under which there is outstanding, or by which there is secured or evidenced, any indebtedness for money borrowed of at least twenty five million dollars ($25,000,000) (or its foreign currency equivalent) in the aggregate of the Company or any of the Company's Significant Subsidiaries, whether such indebtedness exists as of the Issue Date or is thereafter created, where such default:

(1) constitutes a failure to pay the principal of such indebtedness when due and payable at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise, in each case after the expiration of any applicable grace period; or

(2) results in such indebtedness becoming or being declared due and payable before its stated maturity, in each case where such default is not cured or waived within thirty (30) days after written notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding;

(ix) one or more final judgments being rendered against the Company or any of the Company's Significant Subsidiaries for the payment of at least twenty five million dollars ($25,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance), where such judgment is not discharged or stayed within sixty (60) days after (1) the date on which the right to appeal the same has expired, if no such appeal has commenced; or (2) the date on which all rights to appeal have been extinguished;

(x) the Company or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:

(1) commences a voluntary case or proceeding;

(2) consents to the entry of an order for relief against it in an involuntary case or proceeding;

(3) consents to the appointment of a custodian of it or for any substantial part of its property;

(4) makes a general assignment for the benefit of its creditors;

(5) takes any comparable action under any foreign Bankruptcy Law; or

(6) generally is not paying its debts as they become due; or

(xi) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:

(1) is for relief against the Company or any of its Significant Subsidiaries in an involuntary case or proceeding;

(2) appoints a custodian of the Company or any of its Significant Subsidiaries, or for any substantial part of the property of the Company or any of its Significant Subsidiaries;

(3) orders the winding up or liquidation of the Company or any of its Significant Subsidiaries; or

(4) grants any similar relief under any foreign Bankruptcy Law, and, in each case under this **Section 7.01(A)(xi)**, such order or decree remains unstayed and in effect for at least sixty (60) days.

For the avoidance of doubt, the Company's failure to provide any notice required to be sent by the Company under this Indenture (other than a notice referred to in clause **(iii)** above) will not be the basis of any Event of Default except pursuant to clause **(vii)** above (subject to the sixty (60) day cure period contained therein).

(B) *Cause Irrelevant*. Each of the events set forth in **Section 7.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

SECTION 7.02. ACCELERATION.

(A) *Automatic Acceleration in Certain Circumstances*. If (i) an Event of Default set forth in **Section 7.01(A)(x)** or **7.01(A)(xi)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company); or (ii) the Company fails to cure a Termination of Trading Event of Default in the manner set forth in **Section 7.03**, then, in each case, the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration*. Subject to **Section 7.04**, if an Event of Default (other than an Event of Default set forth in **Section 7.01(A)(x)** or **7.01(A)(xi)** with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Trustee, by written notice to the Company, or Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, by written notice to the Company and the Trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding to become due and payable immediately. For the avoidance of doubt, if such Event of Default is not continuing at the time such notice is provided (that is, such Event of Default has been cured or waived as of such time), then such notice will not be effective to cause such amounts to become due and payable immediately.

(C) *Rescission of Acceleration*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Holders of a majority in aggregate principal amount of the Notes then outstanding, by written notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived. No such rescission will affect any subsequent Default or impair any right consequent thereto.

SECTION 7.03. REPURCHASE OFFER AS SOLE REMEDY FOR TERMINATION OF TRADING EVENT OF DEFAULT.

Notwithstanding anything to the contrary in this Indenture or the Notes, the Company may, in its sole and absolute discretion, elect that the sole remedy for any Event of Default pursuant to **Section 7.01(A)(vi)** (such an Event of Default, a "**Termination of Trading Event of Default**"), which remedy will be deemed to cure any Default occurring pursuant to **Section 7.01(A)(vi)** on account of the related Termination of Trading, will be to offer to repurchase the Notes in the manner, and at the same Fundamental Change Repurchase Price and Fundamental Change Repurchase Date, set forth in **Section 4.02** (with the same force and effect as if the Termination of Trading were a Fundamental Change). To make such election, the Company must send to the Holders, no later than the twentieth (20th) calendar day after the date such Termination of Trading has first occurred, a notice that states that a Termination of Trading has occurred and that the Company has elected to offer to repurchase the Notes in connection with such Termination of Trading and includes the same information that is required to be included in a Fundamental Change Notice. Upon sending such Fundamental Change Notice, (i) the Company will satisfy its obligations set forth in **Section 4.02** (subject, for the avoidance of doubt, to **Section 4.02(H)**) with the same force and effect as if the effective date of a Fundamental Change had occurred on the date such Termination of Trading first occurred; and (ii) no Event of Default will be deemed to occur for purposes of this Indenture pursuant to **Section 7.01(A)(vi)** on account of such Termination of Trading (it being understood, for the avoidance of doubt, that the Company's failure to satisfy its obligations referred to in **clause (i)** above may be the basis for the occurrence of an Event of Default). For the avoidance of doubt, nothing in this **Section 7.03** will limit a Holder's right to Convert any of its Notes upon the occurrence of a Termination of Trading or a Termination of Trading Event of Default or affect the rights of Holders in connection with the occurrence of any other Event of Default (including an Event of Default arising from the Company's failure to comply with the applicable requirements resulting from its offer to repurchase the outstanding Notes following a Termination of Trading). If the Company does not timely elect to cure a Termination of Trading Event of Default in accordance with this **Section 7.03**, or if the Company makes such an election but does not pay the Fundamental Change Repurchase Price when due, then the Notes will immediately become subject to acceleration as set forth in **Section 7.02(A)**. For the avoidance of doubt, the occurrence of a Termination of Trading will be deemed to be a Make-Whole Fundamental Change pursuant to **clause (A)(ii)** of the definition of Make-Whole Fundamental Change whether or not the Company elects to offer to repurchase the Notes in connection with such Termination of Trading, and any election by the Company to offer to repurchase the Notes in connection with such Termination of Trading will not be considered to be the occurrence of another Make-Whole Fundamental Change, nor will another notice be required, or another Conversion right arise, pursuant to the **Section 5.01(C)(i)(3)** on account of such election.

SECTION 7.04. SOLE REMEDY FOR A FAILURE TO REPORT.

(A) *Generally*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Company may elect that the sole remedy for any Event of Default (a "**Reporting Event of Default**") pursuant to **Section 7.01(A)(vii)** arising from the Company's failure to comply with **Section 3.02** will, for each of the first three hundred sixty five (365) calendar days on which a Reporting Event of Default has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then (i) the Notes will be subject to acceleration pursuant to **Section 7.02** on account of the relevant Reporting Event of Default from, and including, the three hundred sixty sixth (366th) calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due; and (ii) Special Interest will cease to accrue on any Notes from, and including, such three hundred sixty sixth (366th) calendar day (it being understood that interest on any defaulted Special Interest will nonetheless accrue pursuant to **Section 2.05(B)**).

(B) *Amount and Payment of Special Interest*. Any Special Interest that accrues on a Note pursuant to **Section 7.04(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to one quarter of one percent (0.25%) of the principal amount thereof for the first one hundred eighty (180) days on which such Reporting Event of Default is continuing and Special Interest accrues and, thereafter, at a rate per annum equal to one half of one percent (0.50%) of the principal amount thereof, to, and including, the three hundred sixty fifth (365th) day on which such Reporting Event of Default is continuing and Special Interest accrues; *provided*, *however*, that in no event will Special Interest, together with any Additional Interest (excluding any interest that accrues on any Deferred Additional Interest pursuant to **Section 3.04(C)**), accrue on any day on a Note at a combined rate per annum that exceeds one half of one percent (0.50%). For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note and, subject to the proviso of the immediately preceding sentence, in addition to any Additional Interest that accrues on such Note.

(C) *Notice of Election*. To make the election set forth in **Section 7.04(A)**, the Company must send to the Holders, the Trustee and the Paying Agent, before the date on which each Reporting Event of Default first occurs, a notice that (i) briefly describes the report(s) that the Company failed to file with the SEC; (ii) states that the Company is electing that the sole remedy for such Reporting Event of Default consist of the accrual of Special Interest; and (iii) briefly describes the periods during which and rate at which Special Interest will accrue and the circumstances under which the Notes will be subject to acceleration on account of such Reporting Event of Default.

(D) *Notice to Trustee and Paying Agent; Trustee's Disclaimer*. If Special Interest accrues on any Note, then, no later than five (5) Business Days before each date on which such Special Interest is to be paid, the Company will deliver an Officer's Certificate to the Trustee and the Paying Agent stating (i) that the Company is obligated to pay Special Interest on such Note on such date of payment; and (ii) the amount of such Special Interest that is payable on such date of payment. The Trustee will have no duty to determine whether any Special Interest is payable or the amount thereof.

(E) *No Effect on Other Events of Default*. No election pursuant to this **Section 7.04** with respect to a Reporting Event of Default will affect the rights of any Holder with respect to any other Event of Default, including with respect to any other Reporting Event of Default.

SECTION 7.05. OTHER REMEDIES.

(A) *Trustee May Pursue All Remedies*. If an Event of Default occurs and is continuing, then the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of this Indenture or the Notes.

(B) *Procedural Matters*. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

SECTION 7.06. WAIVER OF PAST DEFAULTS.

An Event of Default pursuant to **clause (i)**, **(ii)**, **(iv)** or **(vii)** of **Section 7.01(A)** (that, in the case of **clause (vii)** only, results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Holders of a majority in aggregate principal amount of the Notes then outstanding. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured and any Event of Default arising therefrom will be deemed not to occur. However, no such waiver will extend to any subsequent or other Default or impair any right arising therefrom. Each such waiver of a Default will have the effect set forth in **Section 8.04(D)**.

SECTION 7.07. CURE OF DEFAULTS; ABILITY TO CURE OR WAIVE BEFORE EVENT OF DEFAULT OCCURS.

For the avoidance of doubt, and without limiting the manner in which any Default or Event of Default can be cured (including pursuant to **Section 7.03)**, (A) a Default or Event of Default consisting of a failure to send a notice in accordance with this Indenture will be cured upon the sending of such notice; (B) a Default or Event of Default in making any payment on (or delivering any other consideration in respect of) any Note will be cured upon the delivery, in accordance with this Indenture, of such payment (or other consideration) together, if applicable, with Default Interest thereon; and (C) a Default or Event of Default that is (or, after notice, passage of time or both, would be) a Reporting Event of Default will be cured upon the filing of the relevant report(s) giving rise to such Default. In addition, for the avoidance of doubt, if a Default that is not an Event of Default is cured or waived before such Default would have constituted an Event of Default, then no Event of Default will result from such Default.

SECTION 7.08. CONTROL BY MAJORITY.

Holders of a majority in aggregate principal amount of the Notes then outstanding may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law, this Indenture or the Notes, or that, subject to **Section 10.01**, the Trustee determines may be unduly prejudicial to the rights of other Holders or may involve the Trustee in liability, unless the Trustee is offered (and, if requested, provided with) security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such direction.

SECTION 7.09. LIMITATION ON SUITS.

No Holder may pursue any remedy with respect to this Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Fundamental Change Repurchase Price or Redemption Price for, or any interest on, any Notes; or (y) the Company's obligations to Convert any Notes pursuant to **Article 5**), unless:

(A) such Holder has previously delivered to the Trustee notice that an Event of Default is continuing;

(B) Holders of at least twenty five percent (25%) in aggregate principal amount of the Notes then outstanding deliver a request to the Trustee to pursue such remedy;

(C) such Holder or Holders offer and, if requested, provide to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such request;

(D) the Trustee does not comply with such request within sixty (60) calendar days after its receipt of such request and such offer of security or indemnity; and

(E) during such sixty (60) calendar day period, Holders of a majority in aggregate principal amount of the Notes then outstanding do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of this Indenture complies with the preceding sentence.

SECTION 7.10. ABSOLUTE RIGHT OF HOLDERS TO INSTITUTE SUIT FOR THE ENFORCEMENT OF THE RIGHT TO RECEIVE PAYMENT AND CONVERSION CONSIDERATION.

Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting **Section 8.01**), the right of each Holder of a Note to bring suit for the enforcement of any payment or delivery, as applicable, of the principal of, or the Fundamental Change Repurchase Price or Redemption Price for, or any interest on, or the Conversion Consideration due pursuant to **Article 5** upon Conversion of, such Note on or after the respective due dates therefor provided in this Indenture and the Notes, will not be impaired or affected without the consent of such Holder.

SECTION 7.11. COLLECTION SUIT BY TRUSTEE.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i)**, **(ii)** or **(iv)** of **Section 7.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for the total unpaid or undelivered principal of, or Fundamental Change Repurchase Price or Redemption Price for, or any interest on, or Conversion Consideration due pursuant to **Article 5** upon Conversion of, the Notes, as applicable, and, to the extent lawful, any Default Interest on any Defaulted Amounts, and such further amounts sufficient to cover the costs and expenses of collection, including compensation provided for in **Section 10.06**.

SECTION 7.12. TRUSTEE MAY FILE PROOFS OF CLAIM.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to **Section 10.06**. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien (senior to the rights of Holders) on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in this Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 7.13. PRIORITIES.

The Trustee will pay or deliver in the following order any money or other property that it collects pursuant to this **Article 7**:

First: to the Trustee and its agents and attorneys for amounts due under **Section 10.06**, including payment of all fees and compensation of, and all expenses and liabilities incurred, and all advances made, by, the Trustee (in each of its capacities under this Indenture, including as Note Agent) and the costs and expenses of collection;

Second: to Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Fundamental Change Repurchase Price or Redemption Price for, or any interest on, or any Conversion Consideration due upon Conversion of, the Notes, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Third: to the Company or such other Person as a court of competent jurisdiction directs.

The Trustee may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 7.13**, in which case the Trustee will instruct the Company to, and the Company will, deliver, at least fifteen (15) calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

SECTION 7.14. UNDERTAKING FOR COSTS.

In any suit for the enforcement of any right or remedy under this Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any litigant party in such suit of an undertaking to pay the costs of such suit; and (B) assess reasonable costs (including reasonable attorneys' fees) against any litigant party in such suit, having due regard to the merits and good faith of the claims or defenses made by such litigant party; *provided*, *however*, that this **Section 7.14** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 7.10** or any suit by one or more Holders of more than ten percent (10%) in aggregate principal amount of the Notes then outstanding.

ARTICLE VIII.
AMENDMENTS, SUPPLEMENTS AND WAIVERS

SECTION 8.01. WITHOUT THE CONSENT OF HOLDERS.

Notwithstanding anything to the contrary in **Section 8.02**, the Company and the Trustee may amend or supplement this Indenture or the Notes without the consent of any Holder to:

(A) cure any ambiguity or correct any omission, defect or inconsistency in this Indenture or the Notes;

(B) add guarantees with respect to the Company's obligations under this Indenture or the Notes;

(C) secure the Notes;

(D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;

(E) provide for the assumption of the Company's obligations under this Indenture and the Notes pursuant to, and in compliance with, **Article 6**;

(F) enter into supplemental indentures pursuant to, and in accordance with, **Section 5.09** in connection with a Common Share Change Event;

(G) irrevocably elect or eliminate any Settlement Method or Specified Dollar Amount; *provided*, *however*, that no such election or elimination will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to **Section 5.03(A)**;

(H) evidence or provide for the acceptance of the appointment, under this Indenture, of a successor Trustee, Registrar, Paying Agent, Bid Solicitation Agent or Conversion Agent or to facilitate the administration of the trusts under this Indenture by more than one Trustee;

(I) conform the provisions of this Indenture and the Notes to the terms described in the Subscription Agreements, as supplemented by the Pricing Term Sheet, dated as of August 11, 2026 (the "**Pricing Term Sheet**");

(J) increase the Conversion Rate as provided in this Indenture;

(K) provide for or confirm the issuance of additional Notes pursuant to **Section 2.03(B)**;

(L) comply with any requirement of the SEC in connection with any qualification of this Indenture, or any related supplemental indenture, under the Trust Indenture Act, as then in effect;

(M) comply with the Depositary Procedures in a manner that does not adversely affect the rights of any Holders; or

(N) make any other change to this Indenture or the Notes that does not, individually or in the aggregate with all other such changes, adversely affect the rights of the Holders, as such, in any material respect, as determined by the Company in good faith.

At the written request of any Holder of a Note or owner of a beneficial interest in a Global Note, the Company will provide a copy of the Pricing Term Sheet referred to in **Section 8.01(I)**.

SECTION 8.02. WITH THE CONSENT OF HOLDERS.

(A) *Generally*. Subject to **Sections 8.01**, **7.06** and **7.10** and the immediately following sentence, the Company and the Trustee may, with the consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding, amend or supplement this Indenture or the Notes or waive compliance with any provision of this Indenture or the Notes. Notwithstanding anything to the contrary in the foregoing sentence, but subject to **Section 8.01**, without the consent of each affected Holder, no amendment or supplement to this Indenture or the Notes, or waiver of any provision of this Indenture or the Notes, may:

(i) reduce the principal, or change the stated maturity, of any Note;

(ii) reduce the Redemption Price or Fundamental Change Repurchase Price for any Note or change the times at which, or the circumstances under which, the Notes may or will be redeemed or repurchased by the Company;

(iii) amend the definition of "Termination of Trading" or change the times at which, or the circumstances under which, the Company may elect to offer to repurchase the Notes as the sole remedy for an Event of Default arising from a Termination of Trading pursuant to **Section 7.03**;

(iv) reduce the rate, or extend the stated time for the payment, of interest on any Note;

(v) make any change that adversely affects the Conversion rights of any Note;

(vi) impair the rights of any Holder set forth in **Section 7.10** (as such section is in effect on the Issue Date);

(vii) change the ranking of the Notes;

(viii) make any Note payable in money, or at a place of payment, other than that stated in this Indenture or the Note;

(ix) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or

(x) make any direct or indirect change to any amendment, supplement, waiver or modification provision of this Indenture or the Notes that requires the consent of each affected Holder.

(B) *Holders Need Not Approve the Particular Form of any Amendment*. A consent of any Holder pursuant to this **Section 8.02** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

SECTION 8.03. NOTICE OF AMENDMENTS, SUPPLEMENTS AND WAIVERS.

As soon as reasonably practicable after any amendment, supplement or waiver pursuant to **Section 8.01** or **8.02** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof; *provided*, *however*, that the Company will not be required to provide such notice to the Holders if such amendment, supplement or waiver is included in a periodic report filed by the Company with the SEC within four (4) Business Days of its effectiveness. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

SECTION 8.04. REVOCATION, EFFECT AND SOLICITATION OF CONSENTS; SPECIAL RECORD DATES; ETC.

(A) *Revocation and Effect of Consents*. The consent of a Holder of a Note to an amendment, supplement or waiver will bind (and constitute the consent of) each subsequent Holder of any Note to the extent the same evidences any portion of the same indebtedness as the consenting Holder's Note, subject to the right of any Holder of a Note to revoke (if not prohibited pursuant to **Section 8.04(B)**) any such consent with respect to such Note by delivering notice of revocation to the Trustee before the time such amendment, supplement or waiver becomes effective.

(B) *Special Record Dates*. The Company may, but is not required to, fix a record date for the purpose of determining the Holders entitled to consent or take any other action in connection with any amendment, supplement or waiver pursuant to this **Article 8**. If a record date is fixed, then, notwithstanding anything to the contrary in **Section 8.04(A)**, only Persons who are Holders as of such record date (or their duly designated proxies) will be entitled to give such consent, to revoke any consent previously given or to take any such action, regardless of whether such Persons continue to be Holders after such record date; *provided*, *however*, that no such consent will be valid or effective for more than one hundred and twenty (120) calendar days after such record date.

(C) *Solicitation of Consents*. For the avoidance of doubt, each reference in this Indenture or the Notes to the consent of a Holder will be deemed to include any such consent obtained in connection with a repurchase of, or tender or exchange offer for, any Notes.

(D) *Effectiveness and Binding Effect*. Each amendment or supplement to this Indenture or the Notes, or waiver of any Default, Event of Default or compliance with any provision of this Indenture or the Notes, will become effective in accordance with its terms and, when it becomes effective with respect to any Note (or any portion thereof), will thereafter bind every Holder of such Note (or such portion).

SECTION 8.05. NOTATIONS AND EXCHANGES.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee or the Company may, in its discretion, require the Holder of such Note to deliver such Note to the Trustee so that the Trustee may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 8.05** will not impair or affect the validity of such amendment, supplement or waiver.

SECTION 8.06. TRUSTEE TO EXECUTE SUPPLEMENTAL INDENTURES.

The Trustee will execute and deliver any amendment or supplemental indenture authorized pursuant to this **Article 8**; *provided*, *however*, that the Trustee need not (but may, in its sole and absolute discretion) execute or deliver any such amendment or supplemental indenture that the Trustee concludes adversely affects the Trustee's rights, duties, liabilities or immunities. In executing any amendment or supplemental indenture, the Trustee will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel stating that (A) the execution and delivery of such amendment or supplemental indenture is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such amendment or supplemental indenture is valid, binding and enforceable against the Company in accordance with its terms.

ARTICLE IX.
SATISFACTION AND DISCHARGE

SECTION 9.01. TERMINATION OF COMPANY'S OBLIGATIONS.

This Indenture will be discharged, and will cease to be of further effect as to all Notes issued under this Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on a Redemption Date, a Fundamental Change Repurchase Date, the Maturity Date, upon Conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(B) the Company has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash (or, with respect to Notes to be Converted, Conversion Consideration) sufficient to satisfy all amounts or other property due on all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**);

(C) the Company has paid all other amounts payable by it under this Indenture; and

(D) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of this Indenture have been satisfied;

provided, *however*, that **Article 10** and **Section 11.01** will survive such discharge and, until no Notes remain outstanding, **Section 2.15** and the obligations of the Trustee, the Paying Agent and the Conversion Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's request, the Trustee will acknowledge the satisfaction and discharge of this Indenture.

SECTION 9.02. REPAYMENT TO COMPANY.

Subject to applicable unclaimed property law, the Trustee, the Paying Agent and the Conversion Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash, Conversion Consideration or other property held by any of them for payment or delivery on the Notes that remain unclaimed two (2) years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee, the Paying Agent and the Conversion Agent will have no further liability to any Holder with respect to such cash, Conversion Consideration or other property, and Holders entitled to the payment or delivery of such cash, Conversion Consideration or other property must look to the Company for payment as a general creditor of the Company.

SECTION 9.03. REINSTATEMENT.

If the Trustee, the Paying Agent or the Conversion Agent is unable to apply any cash or other property deposited with it pursuant to **Section 9.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of this Indenture pursuant to **Section 9.01** will be rescinded; *provided*, *however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee, the Paying Agent or the Conversion Agent, as applicable.

ARTICLE X.
TRUSTEE

SECTION 10.01. DUTIES OF THE TRUSTEE.

(A) If an Event of Default has occurred and is continuing, and a Responsible Officer of the Trustee has written notice or actual knowledge of the same, then, without limiting the generality of **Section 10.02(F)**, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(B) Except during the continuance of an Event of Default:

(i) the duties of the Trustee will be determined solely by the express provisions of this Indenture, and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations will be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith or willful misconduct on its part, the Trustee may, without investigation, conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officer's Certificates or Opinions of Counsel that are provided to the Trustee and conform to the requirements of this Indenture; *provided*, *however*, that the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(C) The Trustee may not be relieved from liabilities for its negligence or willful misconduct, except that:

(i) this paragraph will not limit the effect of **Section 10.01(B)**;

(ii) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to **Section 7.08**.

(D) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability.

(E) The Trustee will not be liable for interest on any money received by it, except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds, except to the extent required by law.

(F) The Trustee will not be liable in its individual capacity for the obligations evidenced by the Notes.

(G) Each provision of this Indenture that in any way relates to the Trustee (including any provision that affects the liability of, or affords protection to, the Trustee) is subject to this **Section 10.01**, regardless of whether such provision so expressly provides.

SECTION 10.02. RIGHTS OF THE TRUSTEE.

(A) The Trustee may conclusively rely on any document that it believes to be genuine and signed or presented by the proper Person, and the Trustee need not investigate any fact or matter stated in such document.

(B) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate, an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel; and the written advice of such counsel, or any Opinion of Counsel, will constitute full and complete authorization of the Trustee to take or omit to take any action in good faith in reliance thereon without liability.

(C) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(D) The Trustee will not be liable for any action it takes or omits to take in good faith and that it believes to be authorized or within the rights or powers vested in it by this Indenture.

(E) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(F) The Trustee need not exercise any rights or powers vested in it by this Indenture at the request or direction of any Holder unless such Holder has offered (and, if requested, provided) the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense that it may incur in complying with such request or direction.

(G) The Trustee will not be responsible or liable for any punitive, special, indirect or consequential loss or damage (including lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(H) The permissive rights of the Trustee set forth in this Indenture will not be construed as duties imposed on the Trustee.

(I) The Trustee will not be required to give any bond or surety in respect of the execution or performance of this Indenture or otherwise.

(J) Unless a Responsible Officer of the Trustee has received notice from the Company that Additional Interest or Special Interest is owing or, if applicable, accruing, on the Notes, the Trustee may assume that no Additional Interest or Special Interest, as applicable, is payable or, if applicable, accruing.

(K) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and will be enforceable by, the Trustee in each of its capacities under this Indenture, including as Note Agent.

(L) The Trustee will not be charged with knowledge of any document or agreement other than this Indenture and the Notes (including without limitation, the Subscription Agreement).

(M) Neither the Trustee nor any Note Agent will have any responsibility or liability to any person for any action taken or not taken by, or any records or any other aspect of the operations of, the Depositary (including the delivery of notices, or the making of payments, through the facilities of the Depositary) and may conclusively rely, without investigation, on any information provided by the Depositary.

SECTION 10.03. INDIVIDUAL RIGHTS OF THE TRUSTEE.

The Trustee, in its individual or any other capacity, may become the owner or pledgee of any Note and may otherwise deal with the Company or any of its Affiliates with the same rights that it would have if it were not Trustee; *provided*, *however*, that if the Trustee acquires a "conflicting interest" (within the meaning of Section 310(b) of the Trust Indenture Act), then it must eliminate such conflict within ninety (90) days or resign as Trustee. Each Note Agent will have the same rights and duties as the Trustee under this **Section 10.03**.

SECTION 10.04. TRUSTEE'S DISCLAIMER.

The Trustee will not be (A) responsible for, and makes no representation as to, the validity or adequacy of this Indenture or the Notes; (B) accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture; (C) responsible for the use or application of any money received by any Paying Agent other than the Trustee; and (D) responsible for any statement or recital in this Indenture, the Notes or any other document relating to the sale of the Notes or this Indenture, other than the Trustee's certificate of authentication.

SECTION 10.05. NOTICE OF DEFAULTS.

If a Default occurs and is continuing and is actually known to a Responsible Officer of the Trustee, then the Trustee will send Holders a notice of such Default within ninety (90) days after it occurs or, if it is not actually known to a Responsible Officer of the Trustee at such time, promptly (and in any event within ten (10) Business Days) after it becomes actually known to a Responsible Officer of the Trustee; *provided*, *however*, that, except in the case of a Default in the payment of the principal of, or interest on, any Note, the Trustee may withhold such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders. For the avoidance of doubt, the Trustee will not be required to deliver such notice at any time after such Default is cured or waived. The Trustee will not be deemed to have notice or be charged with knowledge of any Default or Event of Default unless (A) written notice thereof has been received by a Responsible Officer; and (B) such notice references the Notes and this Indenture and states on its face that a Default or Event of Default, as applicable, has occurred.

SECTION 10.06. COMPENSATION AND INDEMNITY.

(A) The Company will, from time to time, pay the Trustee reasonable compensation for its acceptance of this Indenture and services under this Indenture as separately agreed to by the Company and the Trustee. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. In addition to the compensation for the Trustee's services, the Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it under this Indenture, including the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(B) The Company will indemnify the Trustee (in each of its capacities under this Indenture) and its directors, officers, employees and agents, in their capacities as such, against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this **Section 10.06**) and defending itself against any claim (whether asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties under this Indenture, except to the extent any such loss, liability or expense is attributable (as determined by a final decision of a court of competent jurisdiction) to its negligence or willful misconduct. The Trustee will promptly notify the Company of any claim for which it may seek indemnity, but the Trustee's failure to so notify the Company will not relieve the Company of its obligations under this **Section 10.06(B)**, except to the extent the Company is materially prejudiced by such failure. The Company will defend such claim, and the Trustee will cooperate in such defense. If the Trustee is advised by counsel that it may have defenses available to it that are in conflict with the defenses available to the Company, or that there is an actual or potential conflict of interest, then the Trustee may retain separate counsel, and the Company will pay the reasonable fees and expenses of such counsel (including the reasonable fees and expenses of counsel to the Trustee incurred in evaluating whether such a conflict exists). The Company need not pay for any settlement of any such claim made without its consent, which consent will not be unreasonably withheld.

(C) The obligations of the Company under this **Section 10.06** will survive the resignation or removal of the Trustee and the discharge of this Indenture.

(D) To secure the Company's payment obligations in this **Section 10.06**, the Trustee will have a lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, or interest on, particular Notes, which lien will survive the discharge of this Indenture.

(E) If the Trustee incurs expenses or renders services after an Event of Default pursuant to **clause (x)** or **(xi)** of **Section 7.01(A)** occurs, then such expenses and the compensation for such services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 10.07. REPLACEMENT OF THE TRUSTEE.

(A) Notwithstanding anything to the contrary in this **Section 10.07**, a resignation or removal of the Trustee, and the appointment of a successor Trustee, will become effective only upon such successor Trustee's acceptance of appointment as provided in this **Section 10.07**.

(B) The Trustee may resign at any time and be discharged from the trust created by this Indenture by so notifying the Company. The Holders of a majority in aggregate principal amount of the Notes then outstanding may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee:

(i) if the Trustee fails to comply with **Section 10.09**;

(ii) if the Trustee is adjudged to be bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(iii) if a custodian or public officer takes charge of the Trustee or its property;

(iv) if the Trustee becomes incapable of acting; or

(v) by resolution of the Board of Directors at any time when no Event of Default has occurred and is continuing.

(C) If the Trustee resigns or is removed, or if a vacancy exists in the office of the Trustee for any reason, then (i) the Company will promptly appoint a successor Trustee; and (ii) at any time within one (1) year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the Notes then outstanding may appoint a successor Trustee to replace such successor Trustee appointed by the Company.

(D) If a successor Trustee does not take office within sixty (60) days after the retiring Trustee resigns or is removed, then the retiring Trustee, the Company or the Holders of at least ten percent (10%) in aggregate principal amount of the Notes then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(E) If the Trustee, after written request by a Holder of at least six (6) months, fails to comply with **Section 10.09**, then such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(F) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company, upon which notice the resignation or removal of the retiring Trustee will become effective and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will send notice of its succession to Holders. The retiring Trustee will, upon payment of all amounts due to it under this Indenture, promptly transfer all property held by it as Trustee to the successor Trustee, which property will, for the avoidance of doubt, be subject to the lien provided for in **Section 10.06(D)**.

SECTION 10.08. SUCCESSOR TRUSTEE BY MERGER, ETC.

Any entity into which the Trustee may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Trustee is a party, or any entity succeeding to all or substantially all of the corporate trust business of the Trustee, will (without the execution or filing of any paper or any further act on the part of any of the parties to this Indenture) be the successor of the Trustee under this Indenture, *provided* that such entity is otherwise qualified and eligible to act as such under this **Article 10**.

SECTION 10.09. ELIGIBILITY; DISQUALIFICATION.

There will at all times be a Trustee under this Indenture that is a corporation organized and doing business under the laws of the United States of America or of any state thereof, that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $100.0 million as set forth in its most recent published annual report of condition.

ARTICLE XI.
MISCELLANEOUS

SECTION 11.01. NOTICES.

Any notice or communication by the Company or the Trustee to the other will be deemed to have been duly given if in writing and delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission, electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to the Company:

Proficient Auto Logistics, Inc.
12276 San Jose Blvd. Suite 426
Jacksonville, Florida 32223
Attention: General Counsel

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

Willkie Farr & Gallagher LLP
300 North LaSalle Drive
Chicago, IL 60654-3406
Attention: Edward S. Best and Susan Rabinowitz

If to the Trustee:

U.S. Bank Trust Company, National Association
West Side Flats St. Paul -- Hub
60 Livingston Avenue
St. Paul, MN 55107
EP-MN-S3MC
Attention: B. Bonfig (Proficient Auto Logistics, Inc. Notes)

Notwithstanding anything to the contrary in the preceding paragraph, notices to the Trustee (other than a notice pursuant to **Section 2.12**) or any Note Agent must be in writing and will be deemed to have been given upon actual receipt by the Trustee or such Note Agent, as applicable.

The Company or the Trustee, by notice to the other, may designate additional or different addresses (including facsimile numbers and electronic addresses) for subsequent notices or communications.

The Trustee will not have any duty to confirm that the person sending any notice, instruction or other communication by electronic transmission (including by e-mail, facsimile transmission, web portal or other electronic methods) is, in fact, a person authorized to do so. Electronic signatures believed by the Trustee to comply with the ESIGN Act of 2000 or other applicable law (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other digital signature provider acceptable to the Trustee) will be deemed original signatures for all purposes. Any person that uses electronic signatures or electronic methods to send communications to the Trustee assumes all risks arising out of such use, including the risk of the Trustee acting on an unauthorized communication and the risk of interception or misuse by third parties. Notwithstanding anything to the contrary in this paragraph, the Trustee may, in any instance and in its sole discretion, require that an original document bearing a manual signature be delivered to the Trustee in lieu of, or in addition to, any such electronic communication.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt is acknowledged, if transmitted by facsimile, electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

All notices or communications required to be made to a Holder pursuant to this Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register; *provided*, *however*, that a notice or communication to a Holder of a Global Note may, but need not, instead be sent pursuant to the Depositary Procedures (in which case, such notice will be deemed to be duly sent or given in writing). The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If the Trustee is then acting as the Depositary's custodian for the Notes, then, at the reasonable request of the Company to the Trustee, the Trustee will cause any notice prepared by the Company to be sent to any Holder(s) pursuant to the Depositary Procedures, *provided* such request is evidenced in a Company Order delivered, together with the text of such notice, to the Trustee at least two (2) Business Days before the date such notice is to be so sent. For the avoidance of doubt, such Company Order need not be accompanied by an Officer's Certificate or Opinion of Counsel. The Trustee will not have any liability relating to the contents of any notice that it sends to any Holder pursuant to any such Company Order.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in this Indenture or the Notes, (A) whenever any provision of this Indenture requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities (and, for purposes of the interpretation of this Indenture, such notice will be deemed to have been duly sent at the time otherwise required by this Indenture); and (B) whenever any provision of this Indenture requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

SECTION 11.02. DELIVERY OF OFFICER'S CERTIFICATE AND OPINION OF COUNSEL AS TO CONDITIONS PRECEDENT.

Upon any request or application by the Company to the Trustee to take any action under this Indenture (other than the initial authentication of Notes under this Indenture), the Company will furnish to the Trustee:

(A) an Officer's Certificate that complies with **Section 11.03** and states that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in this Indenture relating to such action have been satisfied; and

(B) an Opinion of Counsel that complies with **Section 11.03** and states that, in the opinion of such counsel, all such conditions precedent and covenants, if any, have been satisfied.

SECTION 11.03. STATEMENTS REQUIRED IN OFFICER'S CERTIFICATE AND OPINION OF COUNSEL.

Each Officer's Certificate (other than an Officer's Certificate pursuant to **Section 3.06**) or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture will include:

(A) a statement that the signatory thereto has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained therein are based;

(C) a statement that, in the opinion of such signatory, he, she or it has made such examination or investigation as is necessary to enable him, her or it to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(D) a statement as to whether, in the opinion of such signatory, such covenant or condition has been satisfied.

SECTION 11.04. RULES BY THE TRUSTEE, THE REGISTRAR, THE PAYING AGENT AND THE CONVERSION AGENT.

The Trustee may make reasonable rules for action by or at a meeting of Holders. Each of the Registrar, the Paying Agent and the Conversion Agent may make reasonable rules and set reasonable requirements for its functions.

SECTION 11.05. NO PERSONAL LIABILITY OF DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS.

No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under this Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

SECTION 11.06. GOVERNING LAW; WAIVER OF JURY TRIAL.

THIS INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY AND THE TRUSTEE IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THIS INDENTURE OR THE NOTES.

SECTION 11.07. SUBMISSION TO JURISDICTION.

Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated by this Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the "**Specified Courts**"), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth in **Section 11.01** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company, the Trustee and each Holder (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

SECTION 11.08. NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS.

Neither this Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret this Indenture or the Notes.

SECTION 11.09. SUCCESSORS.

All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors.

SECTION 11.10. FORCE MAJEURE.

The Trustee and each Note Agent will not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under this Indenture or the Notes by reason of any occurrence beyond its control (including any act or provision of any present or future law or regulation or governmental authority, act of God or war, civil unrest, local or national disturbance or disaster, act of terrorism or unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

SECTION 11.11. U.S.A. PATRIOT ACT.

The Company acknowledges that, in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee, like all financial institutions, in order to help fight the funding of terrorism and money laundering, is required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The Company agrees to provide the Trustee with such information as it may request to enable the Trustee to comply with the U.S.A. PATRIOT Act.

SECTION 11.12. CALCULATIONS.

Except as otherwise provided in this Indenture, the Company will be responsible for making all calculations called for under this Indenture or the Notes, including determinations of the Last Reported Sale Price, the Trading Price, the Daily VWAP, the Daily Conversion Value, the Daily Cash Amount, the Daily Share Amount, accrued interest on the Notes, including any Additional Interest and Special Interest, the Conversion Rate (including adjustments to the Conversion Rate), the Fundamental Change Repurchase Price, the Redemption Price and calculations relating to whether the Notes are Convertible.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent may rely conclusively on the accuracy of the Company's calculations without independent verification. The Trustee will promptly forward a copy of each such schedule to a Holder upon its written request therefor. For the avoidance of doubt, the Trustee will not be obligated to make or confirm any calculations or other amounts called for under this Indenture or the Notes.

SECTION 11.13. SEVERABILITY.

If any provision of this Indenture or the Notes is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Indenture or the Notes will not in any way be affected or impaired thereby.

SECTION 11.14. COUNTERPARTS.

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Indenture by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually executed counterpart.

SECTION 11.15. TABLE OF CONTENTS, HEADINGS, ETC.

The table of contents and the headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions of this Indenture.

SECTION 11.16. WITHHOLDING TAXES.

Each Holder of a Note agrees, and each beneficial owner of an interest in a Global Note, by its acquisition of such interest, is deemed to agree, that if the Company or other applicable withholding agent (including the Trustee) pays withholding taxes or backup withholding on behalf of such Holder or beneficial owner as a result of an adjustment or the non-occurrence of an adjustment to the Conversion Rate, then the Company or such withholding agent, as applicable, may, at its option, set off such payments against payments of cash or the delivery of other Conversion Consideration on such Note, any payments on the Common Shares or sales proceeds received by, or other funds or assets of, such Holder or the beneficial owner of such Note.

SECTION 11.17. SERVICE OF PROCESS.

The Company irrevocably appoints C T Corporation System, which currently maintains an office at 28 Liberty Street, New York, New York 10005, United States of America, as its authorized agent in the City of New York upon which process may be served in any suit, action or proceeding referred to in **Section 11.07**, and agrees that service of process upon such agent, and written notice of such service to the Company by the person serving the same to Proficient Auto Logistics, Inc., 12276 San Jose Blvd., Suite 426, Jacksonville, Florida 32223, Attention: Brad Wright, will be, in every respect, effective service of process upon the Company in any such suit, action or proceeding. The Company agrees to take any and all reasonable action as may be necessary to maintain such designation and appointment of such agent in full force and effect until the date that is six (6) months after the Maturity Date. If, for any reason, such agent ceases to be such agent for service of process, then the Company will promptly appoint a new agent of recognized standing for service of process in the State of New York and deliver to the Holders and the Trustee a copy of the new agent's acceptance of that appointment within ten (10) Business Days of such acceptance. Nothing in this **Section 11.17** will affect the right of the Trustee, any Note Agent or any Holder to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against the Company in any other court of competent jurisdiction. To the extent that the Company has or hereafter may acquire any sovereign or other immunity from jurisdiction of any court or from any legal process with respect to itself or its property, the Company irrevocably waives such immunity in respect of its obligations under this Indenture or under any Note.

[*The Remainder of This Page Intentionally Left Blank; Signature Page Follows*]

IN WITNESS WHEREOF, the parties to this Indenture have caused this Indenture to be duly executed as of the date first written above.

PROFICIENT AUTO LOGISTICS, INC.

By: /s/ Brad Wright
Name: Brad Wright
Title: Chief Financial Officer

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By: /s/ Brandon Bonfig
Name: Brandon Bonfig
Title: Vice President

[Signature Page to Indenture]

EXHIBIT A

FORM OF NOTE

[*Insert Global Note Legend, if applicable*]

[*Insert Restricted Note Legend, if applicable*]

[*Insert Non-Affiliate Legend*]

Proficient Auto Logistics, Inc.

5.500% Convertible Senior Note due 2033

No. [_____] [Initially][1] $[_____]

CUSIP No. 74317M AA2[2]

Proficient Auto Logistics, Inc., a corporation duly organized and validly existing under the laws of the State of Delaware (the "**Company**," which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to [CEDE & CO.][3] [_____][4], or registered assigns, the principal sum [as set forth in the "Schedule of Exchanges of Notes" attached hereto][5] [of $[_____]][6], which amount, taken together with the principal amounts of all other outstanding Notes, shall not, unless permitted by the Indenture, exceed $75,000,000 in aggregate at any time, in accordance with the rules and applicable procedures of the Depositary, on August 15, 2033, and interest thereon as set forth below. Accrued interest on the Notes shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

This Note shall bear interest at the rate of 5.500% per year from August 13, 2026, or from the most recent date to which interest has been paid or provided for to, but excluding, the next scheduled Interest Payment Date until August 15, 2033. Interest is payable semi-annually in arrears on each February 15 and August 15, commencing on February 15, 2027, to Holders of record at the close of business on the preceding February 1 and August 1 (whether or not such day is a Business Day), respectively. Additional Interest will be payable as set forth in Section 3.04 of the within-mentioned Indenture, and any reference to interest on, or in respect of, any Note therein shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to such Section, and any express mention of the payment of Additional Interest in any provision therein shall not be construed as excluding Additional Interest in those provisions thereof where such express mention is not made.

---

1 Include if a global note.

2 This Note will be deemed to be identified by CUSIP No. 74317M AA2 from and after such time when (i) the Company delivers, pursuant to Section 2.12 of the within-mentioned Indenture, written notice to the Trustee of the occurrence of the Resale Restriction Termination Date and the removal of the restrictive legend affixed to this Note and (ii) this Note is identified by such CUSIP number in accordance with the applicable procedures of the Depositary.

3 Include if a global note.

4 Include if a physical note.

5 Include if a global note.

6 Include if a physical note.

Any Defaulted Amounts shall accrue interest per annum at the rate borne by the Notes, subject to the enforceability thereof under applicable law, from, and including, the relevant payment date to, but excluding, the date on which such Defaulted Amounts shall have been paid by the Company, at its election, in accordance with Section 2.05(B) of the Indenture.

The Company shall pay the principal of and interest on this Note, if and so long as such Note is a Global Note, in immediately available funds to the Depositary or its nominee, as the case may be, as the registered Holder of such Note. As provided in and subject to the provisions of the Indenture, the Company shall pay the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated the Trustee as its Paying Agent and Note Registrar in respect of the Notes and its Corporate Trust Office as a place in the continental United States of America where Notes may be presented for payment or for registration of transfer and exchange.

Reference is made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the Holder of this Note the right to convert this Note into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, on the terms and subject to the limitations set forth in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note, and any claim, controversy or dispute arising under or related to this Note, shall be construed in accordance with and governed by the laws of the State of New York.

In the case of any conflict between this Note and the Indenture, the provisions of the Indenture shall control and govern.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually by the Trustee or a duly authorized authenticating agent under the Indenture.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

PROFICIENT AUTO LOGISTICS, INC.

By: _____
Name:
Title:

Dated:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Trustee, certifies that this is one of the Notes described
in the within-named Indenture.

By: _____
Authorized Signatory

[FORM OF REVERSE OF NOTE]

Proficient Auto Logistics, Inc.
5.500% Convertible Senior Note due 2033

This Note is one of a duly authorized issue of Notes of the Company, designated as its 5.500% Convertible Senior Notes due 2033 (the "**Notes**"), initially limited to the aggregate principal amount of $75,000,000, all issued or to be issued under and pursuant to an Indenture dated as of August 13, 2026 (the "**Indenture**"), between the Company and U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders of the Notes. Additional Notes may be issued in an unlimited aggregate principal amount, subject to certain conditions specified in the Indenture. Capitalized terms used in this Note and not defined in this Note shall have the respective meanings set forth in the Indenture.

In case certain Events of Default shall have occurred and be continuing, the principal of, and interest on, all Notes may be declared, by either the Trustee or Holders of at least 25% in aggregate principal amount of Notes then outstanding, and upon said declaration shall become, due and payable, in the manner, with the effect and subject to the conditions and certain exceptions set forth in the Indenture.

Subject to the terms and conditions of the Indenture, the Company will make all payments and deliveries in respect of the Fundamental Change Repurchase Price on the Fundamental Change Repurchase Date, the Redemption Price on any Redemption Date and the principal amount on the Maturity Date, as the case may be, to the Holder who surrenders a Note to a Paying Agent to collect such payments in respect of the Note. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

The Indenture contains provisions permitting the Company and the Trustee in certain circumstances, without the consent of the Holders of the Notes, and in certain other circumstances, with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, evidenced as in the Indenture provided, to execute supplemental indentures modifying the terms of the Indenture and the Notes as described therein. It is also provided in the Indenture that, subject to certain exceptions, the Holders of a majority in aggregate principal amount of the Notes at the time outstanding may on behalf of the Holders of all of the Notes waive any past Default or Event of Default under the Indenture and its consequences.

Each Holder shall have the right to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, (y) accrued and unpaid interest, if any, on, and (z) the consideration due upon conversion of, this Note at the place, at the respective times, at the rate and in the lawful money or shares of Common Stock, as the case may be, herein prescribed.

The Notes are issuable in registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations, without payment of any service charge but, if required by the Company or Trustee, with payment of a sum sufficient to cover any transfer or similar tax that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange of Notes being different from the name of the Holder of the old Notes surrendered for such exchange.

The Notes shall be redeemable at the Company's option on a redemption date on or after August 15, 2030 in accordance with the terms and subject to the conditions specified in the Indenture. No sinking fund is provided for the Notes.

Upon the occurrence of a Fundamental Change (other than an Exempted Fundamental Change), the Holder has the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof (in principal amounts of $1,000 or integral multiples thereof) on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the close of business on the second Scheduled Trading Day immediately preceding the Maturity Date, to convert any Notes or portion thereof that is $1,000 or an integral multiple thereof, into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, at the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture.

ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entireties

JT TEN = joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

SCHEDULE OF EXCHANGES OF NOTES[7]

Proficient Auto Logistics, Inc.
5.500% Convertible Senior Notes due 2033

The initial principal amount of this Global Note is SEVENTY-FIVE MILLION DOLLARS ($75,000,000). The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Custodian

CONVERSION NOTICE

To: U.S. Bank Trust Company, National Association, as Trustee
West Side Flats St. Paul -- Hub
60 Livingston Avenue
St. Paul, MN 55107
EP-MN-S3MC
Attention: B. Bonfig (Proficient Auto Logistics, Inc. Notes)

The undersigned registered owner of this Note hereby exercises the option to convert this Note, or the portion hereof (that is $1,000 principal amount or an integral multiple thereof) below designated, into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and any shares of Common Stock issuable and deliverable upon such conversion, together with any cash for any fractional share, and any Notes representing any unconverted principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock or any portion of this Note not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 5.02(E) of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies this Note. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

State the principal amount of Notes to be converted (which must be $1,000 or an integral multiple of $1,000 in excess thereof):
$_____.

Your contact information:

Participant Name: _____
Participant Number: _____
Contact Name: _____
Contact Email: _____
Contact Telephone: _____

Capitalized terms have the meanings set forth in the Indenture governing the Notes.

OWNERSHIP AND CONVERSION LIMITATION REPRESENTATIONS

In connection with the conversion, the undersigned confirms and certifies as to the statement checked below:

FOR ALL CONVERSIONS:

☐ **Holdings do not and will not exceed the threshold.** Neither the Holder nor any of its Affiliated Parties would, as a result of the acquisition of Common Stock in connection with the conversion of Notes contemplated hereby, become a 9.90% Stockholder with respect to the Company.

STOCK CERTIFICATE INFORMATION

The undersigned hereby requests that the stock certificate or certificates issued upon conversion be registered in the name(s) of the persons set forth below.

The undersigned acknowledges that the Company is not required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares in any name other than that of the converting holder, and the converting holder is solely responsible for the payment of any such taxes. The undersigned acknowledges that if shares are to be issued in the name of a person other than the converting holder, the converting holder shall pay all transfer taxes payable with respect thereto.

You must check one, and only one, of the following two boxes:

☐ The undersigned is requesting registration in a name other than that of the converting holder. The converting holder acknowledges sole responsibility for the payment of any taxes that may be owing by reason thereof. If any taxes are payable upon transfer, they have already been paid.

☐ No transfer of beneficial ownership is occurring in connection with the conversion.

Registered Holder Information:

Name: _____
SSN or Tax ID No.: _____
Street Address: _____
City, State and Zip Code: _____

Delivery Instructions:

Unless you direct otherwise below, the above-referenced stock certificate(s) will be delivered to the registered holder at the address specified above. If you wish to provide separate delivery instructions, check the box and complete the information set forth below.

☐ The undersigned requests that the above-referenced stock certificate(s) be delivered to the person and address set forth below:

Name: _____
Street Address: _____
City, State and Zip Code: _____

Delivery via DTC:

If you would prefer to have the shares of common stock issued to you upon conversion to be delivered via The Depository Trust Company ("DTC"), please provide the information below:

☐ The undersigned requests that the above-referenced stock certificate(s) be delivered via the DTC, to the undersigned as set forth below:

Participant Name: _____
DTC Participant Number: _____

CASH PAYMENT INSTRUCTIONS

The undersigned directs that any cash payment in respect of the conversion be wired in accordance with the wire instructions set forth below:

Bank: _____
Address: _____
Name of Account: _____
ABA No.: _____
Account No.: _____

To avoid the application of "backup withholding" under U.S. federal income tax law, each converting holder (or other payee) should complete, sign, and deliver an Internal Revenue Service ("IRS") Form W-9 (in the case of a U.S. person or a resident alien) or an IRS Form W-8BEN or other appropriate IRS Form W-8 (in the case of a foreign holder). IRS Forms W-9 and W-8 are available on the IRS's website at http://www.irs.gov/. Failure to include a properly completed IRS Form W-9 or applicable IRS Form W-8 may result in the application of U.S. backup withholding.

In addition, Notes surrendered for conversion during the period from the Close of Business on any Record Date to the Open of Business on the immediately following Interest Payment Date must be accompanied by funds equal to the amount of interest payable on the Notes so converted, except as specified below. However, such payment need not be made: (v) if the Company has specified a Redemption Date that is after such Regular Record Date and on or before the second (2nd) Business Day immediately after such Interest Payment Date; (w) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (x) if the Company has specified a Fundamental Change Repurchase Date (including a Fundamental Change Repurchase Date that the Company has specified in connection with its election to offer to repurchase the Notes as the sole remedy for an Event of Default arising from a Termination of Trading, pursuant to Section 7.03 of the Indenture) that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (y) to the extent of any overdue interest or interest that has accrued on any overdue interest. Wiring instructions for any such payment of funds may be obtained by contacting the Company at bwright@proautologistics.com.

SIGNATURE:

Date:
Signature:
Name:
Title:

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program, pursuant to S.E.C. Rule 17Ad-15.

Signature Guarantee_____

FUNDAMENTAL CHANGE REPURCHASE NOTICE

PROFICIENT AUTO LOGISTICS, INC.

To: U.S. Bank Trust Company, National Association, as Trustee
West Side Flats St. Paul -- Hub
60 Livingston Avenue
St. Paul, MN 55107
EP-MN-S3MC
Attention: B. Bonfig (Proficient Auto Logistics, Inc. Notes)

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from Proficient Auto Logistics, Inc. (the "**Company**") as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Repurchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Section 4.02 of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is $1,000 principal amount or an integral multiple thereof) below designated, and (2) if such Fundamental Change Repurchase Date does not fall during the period after a Regular Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest, if any, thereon to, but excluding, such Fundamental Change Repurchase Date. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below:

Dated: _____

_____
Signature(s)

_____
Social Security or Other Taxpayer Identification Number

Principal amount to be repaid (if less than all): $_____,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

ASSIGNMENT FORM

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ (Please insert social security or Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints _____ attorney to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

☐ To Proficient Auto Logistics, Inc. or a subsidiary thereof; or

☐ Pursuant to a registration statement that has become or been declared effective under the Securities Act of 1933, as amended; or

☐ To a person reasonably believed to be a qualified institutional buyer in compliance with Rule 144A under the Securities Act of 1933, as amended; or

☐ Pursuant to and in compliance with Rule 144 under the Securities Act of 1933, as amended (if available), or any other available exemption from the registration requirements of the Securities Act of 1933, as amended.

The foregoing assignment and transfer complies with Section 2.10 of the Indenture (to the extent such Section is applicable).

Dated: _____

_____

_____
Signature(s)

_____
Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.

NOTICE: The signature on the assignment must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

ACCEPTED AND AGREED:

PROFICIENT AUTO LOGISTICS, INC.

By: _____
Name:
Title:

TRANSFEREE ACKNOWLEDGMENT

The undersigned represents that it is purchasing the within Note for its own account, or for one or more accounts with respect to which the undersigned exercises sole investment discretion, and that the undersigned and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act. The undersigned acknowledges that the transferor is relying, in transferring the within Note, on the exemption from the registration and prospectus-delivery requirements of the Securities Act of 1933, as amended, provided by Rule 144A and that the undersigned has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A.

Dated: _____

(Name of Transferee)

By: _____
Name:
Title:

FORM OF RESTRICTED NOTE LEGEND

THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER: (1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT), AND (2) AGREES FOR THE BENEFIT OF PROFICIENT AUTO LOGISTICS, INC. (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT: (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR (C) TO A PERSON IT REASONABLY BELIEVES TO BE A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR (D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(C) OR (D) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER FOR THE COMPANY TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

HEDGING TRANSACTIONS INVOLVING THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY MAY NOT BE CONDUCTED UNLESS IN COMPLIANCE WITH THE SECURITIES ACT.*

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* This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.12 of the within-mentioned Indenture.

EXHIBIT B-2

FORM OF GLOBAL NOTE LEGEND

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS THE OWNER AND HOLDER OF THIS NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE 2 OF THE INDENTURE HEREINAFTER REFERRED TO.

FORM OF NON-AFFILIATE LEGEND

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED) OF THE COMPANY MAY PURCHASE OR OTHERWISE ACQUIRE THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN.

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS THE OWNER AND HOLDER OF THIS NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE 2 OF THE INDENTURE HEREINAFTER REFERRED TO.

THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER: (1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT), AND (2) AGREES FOR THE BENEFIT OF PROFICIENT AUTO LOGISTICS, INC. (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT: (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR (C) TO A PERSON IT REASONABLY BELIEVES TO BE A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR (D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(C) OR (D) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER FOR THE COMPANY TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

HEDGING TRANSACTIONS INVOLVING THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY MAY NOT BE CONDUCTED UNLESS IN COMPLIANCE WITH THE SECURITIES ACT.*

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED) OF THE COMPANY MAY PURCHASE OR OTHERWISE ACQUIRE THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN.

* This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.12 of the within-mentioned Indenture.

Proficient Auto Logistics, Inc.

5.500% Convertible Senior Note due 2033

No. 1 Initially US$75,000,000

CUSIP No. 74317M AA2[1]

Proficient Auto Logistics, Inc., a corporation duly organized and validly existing under the laws of the State of Delaware (the "**Company**," which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to CEDE & CO., or registered assigns, the principal sum as set forth in the "Schedule of Exchanges of Notes" attached hereto, which amount, taken together with the principal amounts of all other outstanding Notes, shall not, unless permitted by the Indenture, exceed $75,000,000 in aggregate at any time, in accordance with the rules and applicable procedures of the Depositary, on August 15, 2033, and interest thereon as set forth below. Accrued interest on the Notes shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

This Note shall bear interest at the rate of 5.500% per year from August 13, 2026, or from the most recent date to which interest has been paid or provided for to, but excluding, the next scheduled Interest Payment Date until August 15, 2033. Interest is payable semi-annually in arrears on each February 15 and August 15, commencing on February 15, 2027, to Holders of record at the close of business on the preceding February 1 and August 1 (whether or not such day is a Business Day), respectively. Additional Interest will be payable as set forth in Section 3.04 of the within-mentioned Indenture, and any reference to interest on, or in respect of, any Note therein shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to such Section, and any express mention of the payment of Additional Interest in any provision therein shall not be construed as excluding Additional Interest in those provisions thereof where such express mention is not made.

Any Defaulted Amounts shall accrue interest per annum at the rate borne by the Notes, subject to the enforceability thereof under applicable law, from, and including, the relevant payment date to, but excluding, the date on which such Defaulted Amounts shall have been paid by the Company, at its election, in accordance with Section 2.05(B) of the Indenture.

The Company shall pay the principal of and interest on this Note, if and so long as such Note is a Global Note, in immediately available funds to the Depositary or its nominee, as the case may be, as the registered Holder of such Note. As provided in and subject to the provisions of the Indenture, the Company shall pay the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated the Trustee as its Paying Agent and Note Registrar in respect of the Notes and its Corporate Trust Office as a place in the continental United States of America where Notes may be presented for payment or for registration of transfer and exchange.

[1] This Note will be deemed to be identified by CUSIP No. 74317M AA2 from and after such time when (i) the Company delivers, pursuant to Section 2.12 of the within-mentioned Indenture, written notice to the Trustee of the occurrence of the Resale Restriction Termination Date and the removal of the restrictive legend affixed to this Note and (ii) this Note is identified by such CUSIP number in accordance with the applicable procedures of the Depositary.

Reference is made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the Holder of this Note the right to convert this Note into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, on the terms and subject to the limitations set forth in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note, and any claim, controversy or dispute arising under or related to this Note, shall be construed in accordance with and governed by the laws of the State of New York.

In the case of any conflict between this Note and the Indenture, the provisions of the Indenture shall control and govern.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually by the Trustee or a duly authorized authenticating agent under the Indenture.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

PROFICIENT AUTO LOGISTICS, INC.

By: _____
Name:
Title:

Dated: August 13, 2026

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Trustee, certifies that this is one of the Notes described
in the within-named Indenture.

By: _____
Authorized Signatory

[*Signature Page to Global Note*]

[REVERSE OF NOTE]

Proficient Auto Logistics, Inc.
5.500% Convertible Senior Note due 2033

This Note is one of a duly authorized issue of Notes of the Company, designated as its 5.500% Convertible Senior Notes due 2033 (the "**Notes**"), initially limited to the aggregate principal amount of $75,000,000, all issued or to be issued under and pursuant to an Indenture dated as of August 13, 2026 (the "**Indenture**"), between the Company and U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders of the Notes. Additional Notes may be issued in an unlimited aggregate principal amount, subject to certain conditions specified in the Indenture. Capitalized terms used in this Note and not defined in this Note shall have the respective meanings set forth in the Indenture.

In case certain Events of Default shall have occurred and be continuing, the principal of, and interest on, all Notes may be declared, by either the Trustee or Holders of at least 25% in aggregate principal amount of Notes then outstanding, and upon said declaration shall become, due and payable, in the manner, with the effect and subject to the conditions and certain exceptions set forth in the Indenture.

Subject to the terms and conditions of the Indenture, the Company will make all payments and deliveries in respect of the Fundamental Change Repurchase Price on the Fundamental Change Repurchase Date, the Redemption Price on any Redemption Date and the principal amount on the Maturity Date, as the case may be, to the Holder who surrenders a Note to a Paying Agent to collect such payments in respect of the Note. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

The Indenture contains provisions permitting the Company and the Trustee in certain circumstances, without the consent of the Holders of the Notes, and in certain other circumstances, with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, evidenced as in the Indenture provided, to execute supplemental indentures modifying the terms of the Indenture and the Notes as described therein. It is also provided in the Indenture that, subject to certain exceptions, the Holders of a majority in aggregate principal amount of the Notes at the time outstanding may on behalf of the Holders of all of the Notes waive any past Default or Event of Default under the Indenture and its consequences.

Each Holder shall have the right to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, (y) accrued and unpaid interest, if any, on, and (z) the consideration due upon conversion of, this Note at the place, at the respective times, at the rate and in the lawful money or shares of Common Stock, as the case may be, herein prescribed.

The Notes are issuable in registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations, without payment of any service charge but, if required by the Company or Trustee, with payment of a sum sufficient to cover any transfer or similar tax that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange of Notes being different from the name of the Holder of the old Notes surrendered for such exchange.

The Notes shall be redeemable at the Company's option on a redemption date on or after August 15, 2030 in accordance with the terms and subject to the conditions specified in the Indenture. No sinking fund is provided for the Notes.

Upon the occurrence of a Fundamental Change (other than an Exempted Fundamental Change), the Holder has the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof (in principal amounts of $1,000 or integral multiples thereof) on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the close of business on the second Scheduled Trading Day immediately preceding the Maturity Date, to convert any Notes or portion thereof that is $1,000 or an integral multiple thereof, into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, at the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture.

ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entireties

JT TEN = joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

SCHEDULE OF EXCHANGES OF NOTES

Proficient Auto Logistics, Inc.
5.500% Convertible Senior Notes due 2033

The initial principal amount of this Global Note is SEVENTY-FIVE MILLION DOLLARS ($75,000,000). The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Custodian

CONVERSION NOTICE

To: U.S. Bank Trust Company, National Association, as Trustee
West Side Flats St. Paul -- Hub
60 Livingston Avenue
St. Paul, MN 55107
EP-MN-S3MC
Attention: B. Bonfig (Proficient Auto Logistics, Inc. Notes)

The undersigned registered owner of this Note hereby exercises the option to convert this Note, or the portion hereof (that is $1,000 principal amount or an integral multiple thereof) below designated, into cash, shares of Common Stock or a combination of cash and shares of Common Stock, as applicable, in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and any shares of Common Stock issuable and deliverable upon such conversion, together with any cash for any fractional share, and any Notes representing any unconverted principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock or any portion of this Note not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 5.02(E) of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies this Note. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

State the principal amount of Notes to be converted (which must be $1,000 or an integral multiple of $1,000 in excess thereof):
$_____.
Your contact information:
Participant Name: _____
Participant Number: _____
Contact Name: _____
Contact Email: _____
Contact Telephone: _____

Capitalized terms have the meanings set forth in the Indenture governing the Notes.

OWNERSHIP AND CONVERSION LIMITATION REPRESENTATIONS

In connection with the conversion, the undersigned confirms and certifies as to the statement checked below:

FOR ALL CONVERSIONS:

☐ **Holdings do not and will not exceed the threshold.** Neither the Holder nor any of its Affiliated Parties would, as a result of the acquisition of Common Stock in connection with the conversion of Notes contemplated hereby, become a 9.90% Stockholder with respect to the Company.

STOCK CERTIFICATE INFORMATION

The undersigned hereby requests that the stock certificate or certificates issued upon conversion be registered in the name(s) of the persons set forth below.

The undersigned acknowledges that the Company is not required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares in any name other than that of the converting holder, and the converting holder is solely responsible for the payment of any such taxes. The undersigned acknowledges that if shares are to be issued in the name of a person other than the converting holder, the converting holder shall pay all transfer taxes payable with respect thereto.

You must check one, and only one, of the following two boxes:

☐ The undersigned is requesting registration in a name other than that of the converting holder. The converting holder acknowledges sole responsibility for the payment of any taxes that may be owing by reason thereof. If any taxes are payable upon transfer, they have already been paid.

☐ No transfer of beneficial ownership is occurring in connection with the conversion.

Registered Holder Information:
Name: _____
SSN or Tax ID No.: _____
Street Address: _____
City, State and Zip Code: _____

Delivery Instructions:

Unless you direct otherwise below, the above-referenced stock certificate(s) will be delivered to the registered holder at the address specified above. If you wish to provide separate delivery instructions, check the box and complete the information set forth below.

☐ The undersigned requests that the above-referenced stock certificate(s) be delivered to the person and address set forth below:
Name: _____
Street Address: _____
City, State and Zip Code: _____

Delivery via DTC:

If you would prefer to have the shares of common stock issued to you upon conversion to be delivered via The Depository Trust Company ("DTC"), please provide the information below:

☐ The undersigned requests that the above-referenced stock certificate(s) be delivered via the DTC, to the undersigned as set forth below:
Participant Name: _____
DTC Participant Number: _____

CASH PAYMENT INSTRUCTIONS

The undersigned directs that any cash payment in respect of the conversion be wired in accordance with the wire instructions set forth below:

Bank: _____

Address: _____

Name of Account: _____

ABA No.: _____

Account No.: _____

To avoid the application of "backup withholding" under U.S. federal income tax law, each converting holder (or other payee) should complete, sign, and deliver an Internal Revenue Service ("IRS") Form W-9 (in the case of a U.S. person or a resident alien) or an IRS Form W-8BEN or other appropriate IRS Form W-8 (in the case of a foreign holder). IRS Forms W-9 and W-8 are available on the IRS's website at http://www.irs.gov/. Failure to include a properly completed IRS Form W-9 or applicable IRS Form W-8 may result in the application of U.S. backup withholding.

In addition, Notes surrendered for conversion during the period from the Close of Business on any Record Date to the Open of Business on the immediately following Interest Payment Date must be accompanied by funds equal to the amount of interest payable on the Notes so converted, except as specified below. However, such payment need not be made: (v) if the Company has specified a Redemption Date that is after such Regular Record Date and on or before the second (2nd) Business Day immediately after such Interest Payment Date; (w) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (x) if the Company has specified a Fundamental Change Repurchase Date (including a Fundamental Change Repurchase Date that the Company has specified in connection with its election to offer to repurchase the Notes as the sole remedy for an Event of Default arising from a Termination of Trading, pursuant to Section 7.03 of the Indenture) that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (y) to the extent of any overdue interest or interest that has accrued on any overdue interest. Wiring instructions for any such payment of funds may be obtained by contacting the Company at bwright@proautologistics.com.

SIGNATURE:

Date:

Signature:

Name:

Title:

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program, pursuant to S.E.C. Rule 17Ad-15.

Signature Guarantee_____

FUNDAMENTAL CHANGE REPURCHASE NOTICE

PROFICIENT AUTO LOGISTICS, INC.

To: U.S. Bank Trust Company, National Association, as Trustee
West Side Flats St. Paul -- Hub
60 Livingston Avenue
St. Paul, MN 55107
EP-MN-S3MC
Attention: B. Bonfig (Proficient Auto Logistics, Inc. Notes)

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from Proficient Auto Logistics, Inc. (the "**Company**") as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Repurchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Section 4.02 of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is $1,000 principal amount or an integral multiple thereof) below designated, and (2) if such Fundamental Change Repurchase Date does not fall during the period after a Regular Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest, if any, thereon to, but excluding, such Fundamental Change Repurchase Date. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below:

Dated: _____

_____
Signature(s)

_____
Social Security or Other Taxpayer Identification Number

Principal amount to be repaid (if less than all): $_____,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

ASSIGNMENT FORM

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ (Please insert social security or Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints _____ attorney to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

☐ To Proficient Auto Logistics, Inc. or a subsidiary thereof; or

☐ Pursuant to a registration statement that has become or been declared effective under the Securities Act of 1933, as amended; or

☐ To a person reasonably believed to be a qualified institutional buyer in compliance with Rule 144A under the Securities Act of 1933, as amended; or

☐ Pursuant to and in compliance with Rule 144 under the Securities Act of 1933, as amended (if available), or any other available exemption from the registration requirements of the Securities Act of 1933, as amended.

The foregoing assignment and transfer complies with Section 2.10 of the Indenture (to the extent such Section is applicable).

Dated: _____

_____

_____
Signature(s)

_____
Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.

NOTICE: The signature on the assignment must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

ACCEPTED AND AGREED:

PROFICIENT AUTO LOGISTICS, INC.

By: _____
Name:
Title:

TRANSFEREE ACKNOWLEDGMENT

The undersigned represents that it is purchasing the within Note for its own account, or for one or more accounts with respect to which the undersigned exercises sole investment discretion, and that the undersigned and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act. The undersigned acknowledges that the transferor is relying, in transferring the within Note, on the exemption from the registration and prospectus-delivery requirements of the Securities Act of 1933, as amended, provided by Rule 144A and that the undersigned has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A.

Dated: _____

(Name of Transferee)

By: _____
Name:
Title:

Exhibit 10.1

August 10, 2026

Proficient Auto Logistics, Inc.
12276 San Jose Blvd.
Suite 426
Jacksonville, Florida 32223

Attention: General Counsel and Chief Financial Officer

Re: Subscription for Proficient Auto Logistics, Inc. Convertible Senior Notes due 2033

Ladies and Gentlemen:

Proficient Auto Logistics, Inc., a Delaware corporation (the "**Company**"), is offering a new series of its Convertible Senior Notes due 2033 (the "**Notes**"). The Notes will be convertible into cash, shares ("**Underlying Shares**") of common stock of the Company, par value $0.01 per share ("**Stock**"), or a combination of cash and Underlying Shares, at the Company's election, in accordance with the terms of the Indenture (as defined below).

The undersigned (the "**Investor**"), for itself and, on behalf of the accounts (if any) listed on Exhibit A hereto (each, including the Investor if it is listed on Exhibit A, a "**Subscriber**"), for which the Investor has been duly authorized to enter into this Subscription Agreement (as defined below), may subscribe for and purchase from the Company the Notes for cash (the "**Subscriptions**") pursuant and subject to the terms and conditions set forth in this agreement (the "**Subscription Agreement**"). Each Subscriber (other than the Investor) is referred to herein as an "**Account**."

The Company is simultaneously entering into subscription agreements (the "Other Subscription Agreements") on substantially identical terms to this Agreement with other subscribers to acquire Notes.

The Investor and each Account understands that the Subscriptions are being made without registration under the Securities Act of 1933, as amended (the "**Securities Act**"), or any securities laws of any state of the United States or of any other jurisdiction, and that the Subscriptions are only being made to investors who are institutional "accredited investors" (within the meaning of Rule 501 of Regulation D under the Securities Act) that are also "qualified institutional buyers" (within the meaning of Rule 144A under the Securities Act) in reliance upon an exemption from registration under Section 4(a)(2). The Subscriptions are described in, and will be made pursuant to, the Indenture relating to the Notes (the "**Indenture**") to be entered into as of the Closing Date (as defined below) between the Company and U.S. Bank Trust Company, National Association, as Trustee (the "**Trustee**"), substantially in the form of the draft Indenture provided to the Investor, as supplemented by the Pricing Term Sheet, dated as of the date hereof (the "**Pricing Term Sheet**" and, together with the Indenture, the "**Transaction Documents**").

1. The Subscription. Subject to the terms and conditions of this Subscription Agreement, the Investor hereby agrees to purchase from the Company, and the Company hereby agrees to issue and sell to the Investor and/or any such Account, Notes having an aggregate principal amount as set forth in column 2 of Exhibit A hereto, for an aggregate purchase price in cash in respect of such Notes as set forth in column 3 of Exhibit A (such aggregate cash purchase price, the "**Cash Purchase Price**"). For the avoidance of doubt, such Cash Purchase Price shall not be adjusted for accrued interest if the Closing (as defined below) occurs after August 13, 2026.

2. The Closing. The closing of the Subscriptions (the "**Closing**") shall take place electronically at 10:00 AM, New York City time, on August 13, 2026 the third (3rd) business day following the date hereof, or at such other time and place as the Company may designate by notice to the Investor (the "**Closing Date**"); provided that the Closing Date may not be later than August 17, 2026 (the "**Outside Date**") without the prior written consent of the Investor. If the Closing has not occurred by the Outside Date, the Investor may terminate this Subscription Agreement upon written notice to the Company.

3. Closing Mechanics.

(a) The Depository Trust Company ("**DTC**") will act as securities depositary for the Notes.

(b) At or prior to the times set forth in the Subscription Procedures set forth in Exhibit B hereto (the "**Subscription Procedures**"), the Investor, on behalf of itself and/or any other Account, shall transfer the Cash Purchase Price by wire in immediately available funds to the account of the Company designated in the Subscription Procedures.

(c) On the Closing Date, subject to satisfaction of the conditions precedent specified in Section 6 hereof, and the prior receipt by the Company of the Cash Purchase Price from the Investor on behalf of each Subscriber, the Company shall (i) execute and deliver the Indenture, dated as of the Closing Date, between the Company and the Trustee and (ii) execute, cause the Trustee to authenticate and cause to be delivered to the DTC account(s) specified by the Investor or the relevant Account in Exhibit C hereto, the Notes.

All questions as to the form of all documents and the validity and acceptance of the Notes will be determined by the Company, in its good faith and commercially reasonable discretion.

4. Representations and Warranties of the Company. The Company represents and warrants to the Investor (and each Account, as applicable) that:

(a) *Organization*. The Company is duly organized and is validly existing under the laws of the State of Delaware.

(b) Due Authorization. This Subscription Agreement has been duly authorized, executed and delivered by the Company and constitutes the valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions, as defined below.

(c) *Notes*. The Notes have been duly authorized by the Company and, when duly executed by the Company in accordance with the terms of the Indenture, upon due authentication of the Notes by the Trustee and delivery to the Investors in accordance with the terms of the Subscription against payment of the Cash Purchase Price, will be validly issued and delivered and will constitute valid and binding obligations of the Company entitled to the benefits of the Indenture, enforceable against the Company in accordance with their terms, except as such enforceability may be limited by bankruptcy, fraudulent conveyance, insolvency, reorganization, moratorium, and other laws relating to or affecting creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law) (collectively, the "**Enforceability Exceptions**"). The maximum number of Underlying Shares initially issuable upon conversion of the Notes (assuming settlement in shares of Stock to the maximum extent permitted by the Indenture and taking into account the maximum make-whole adjustment under the Indenture) has been duly and validly authorized and reserved for by the Company and, when issued upon conversion of the Notes in accordance with the terms of the Notes and the Indenture, will be validly issued, fully paid and non-assessable, and the issuance of any Underlying Shares will not be subject to any preemptive, participation, rights of first refusal or similar rights. At or prior to the Closing, a notice for the listing of additional shares covering the Underlying Shares shall have been submitted to the Nasdaq Global Market.

(d) *Indenture*. The Company has all requisite corporate power and authority to perform its obligations under the Indenture. The Indenture has been duly authorized by the Company, and will have been duly executed and delivered by the Company at or prior to the Closing. Assuming due authorization, execution and delivery by the Trustee, the Indenture, upon execution and delivery thereof by the Company, will constitute the valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions.

(e) *Exemption from Registration*. Assuming the accuracy of the representations and warranties of the Investor and each other investor executing a subscription agreement in substantially the same form as this Subscription Agreement, (1) the issuance of the Notes in connection with the Subscriptions pursuant to this Subscription Agreement is exempt from the registration requirements of the Securities Act; and (2) the Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended. The Company is not and, after giving effect to the transactions pursuant to the Subscription Agreements (including the use of proceeds from the sale of the Notes), will not be, required to register as an investment company under the Investment Company Act of 1940, as amended.

(f) *New Class*. The Notes, when issued, will not be of the same class as securities listed on a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), or quoted in a U.S. automated inter-dealer quotation system, within the meaning of Rule 144A(d)(3)(i) under the Securities Act.

(g) *No Conflicts*. The issuance of the Notes pursuant to the Transaction Documents, the execution, delivery and performance, as applicable, by the Company of its obligations under the Notes, the Indenture and each Subscription Agreement, and the consummation of the transactions contemplated hereby and thereby, will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, impose any lien, charge or encumbrance upon any property or assets of the Company or its subsidiaries, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, license, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (ii) result in any violation of the provisions of the charter or by-laws or similar organizational document of the Company or any of its significant subsidiaries (as such term is used in Item 1-02(w) of SEC Regulation S-X) or (iii) result in any violation of any statute or any judgment, order, decree, rule or regulation of any court or arbitrator or federal, state, local or foreign governmental agency or regulatory authority having jurisdiction over the properties or assets of the Company or any of its subsidiaries or any of their properties or assets, except, with respect to clauses (i) and (iii), conflicts, breaches, violations, impositions or defaults that would not reasonably be expected to have a material adverse effect on the financial condition, results of operations, stockholders' equity, properties or business of the Company and its subsidiaries taken as a whole or a material adverse effect on the performance by the Company of its obligations under any Subscription Agreement, the Indenture or the Notes or the consummation of any of the transactions contemplated hereby or thereby.

(h) *Solvency*. On each of the date hereof and immediately after giving effect to the Subscriptions on the Closing Date, (A) the present fair market value (or present fair saleable value) of the total assets of Company and its subsidiaries taken as a whole is not less than the total amount required to pay the probable total liabilities (including contingent liabilities) of the Company and its subsidiaries taken as a whole as they mature and become absolute, (B) the capital of the Company and its subsidiaries taken as a whole is adequate to conduct the Company's and its subsidiaries' businesses and for the Company to enter into the Subscriptions, (C) the Company and its subsidiaries taken as a whole has the ability to pay its debts and obligations as such debts mature, and (D) the Company and its subsidiaries taken as a whole is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code)).

(i) *Subscriptions*. The Company acknowledges that the terms of the Subscriptions have been mutually negotiated between the parties that the Investor and Subscriber(s) will rely upon the truth and accuracy of the foregoing acknowledgments, representations, warranties and agreements. The acknowledgments, representations, warranties and agreements shall be deemed to have been confirmed and repeated as of the Closing Date and the Company agrees promptly to notify the Investor in writing if such acknowledgments, representations, warranties and agreements are no longer accurate on or prior to the Closing Date.

(j) *Public Filings*. From January 1, 2025 to the date of this Subscription Agreement or the Closing Date, as applicable, the Company has filed all reports, schedules, forms, proxy statements, statements and other documents required to be filed by it with the Securities and Exchange Commission (the "**SEC**") pursuant to the reporting requirements of the Exchange Act (all of the foregoing filed prior to the date hereof and all exhibits and appendices included therein and financial statements, notes and schedules thereto and documents incorporated by reference therein being hereinafter referred to as the "**SEC Documents**"). As of their respective dates, the SEC Documents complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents, together with the related schedules and notes, present fairly, in all material respects, the financial position of the Company and its consolidated subsidiaries as of the dates shown and their results of operations, shareholders' equity and cash flows for the periods shown, and, except as otherwise disclosed in the SEC Documents, such financial statements have been prepared in conformity with U.S. Generally Accepted Accounting Principles applied on a consistent basis and the schedules included in the SEC Documents present fairly, in all material respects, the information required to be stated therein.

(k) *No Required Shareholder Approval*. No approval or consent of the Company's shareholders is required under applicable law or the rules of The Nasdaq Stock Market LLC (including Nasdaq Listing Rule 5635) in connection with the issuance and sale of the Notes or the issuance of the maximum number of Underlying Shares referred to in Section 4(c).

(l) *Disclosure*. All information concerning the Company or its securities communicated by or on behalf of the Company (including by the Placement Agent) to the Investor or any Account in connection with the Subscriptions that constitutes material non-public information, including the terms of the Subscriptions and any information regarding the Company's results, guidance or outlook for the fiscal quarter ended June 30, 2026 or any subsequent period (collectively, the "**Cleansing Information**"), will be publicly disclosed by the Company at or prior to the Release Time (as defined in Section 7). From and after the Release Time, neither the Investor nor any Account will be in possession of any material non-public information concerning the Company or its securities received from the Company or the Placement Agent. Whether information constitutes Cleansing Information shall be determined without regard to whether the Company believes it to be material or non-public. The Company understands that the Investor and each Account will rely on the foregoing in effecting transactions in securities of the Company.

5. Representations and Warranties of the Investor. The Investor hereby represents and warrants to and covenants with the Company, on behalf of itself and each Account, as applicable, that:

(a) The Investor is a corporation, limited partnership, limited liability company or other entity, as the case may be, duly formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable.

(b) This Subscription Agreement, when executed and delivered, has been duly authorized, executed and delivered by the Investor and constitutes the valid and binding obligation of the Investor, enforceable in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. If the Investor is executing this Subscription Agreement on behalf of an Account, (i) the Investor has all requisite discretionary and contractual authority to enter into this Subscription Agreement on behalf of, and, bind, each Account to the terms of this Subscription Agreement, and (ii) Exhibit A hereto is a true, correct and complete list of the name of each Subscriber and the aggregate principal amount of Notes each such Subscriber agrees to purchase hereunder.

(c) Participation in the Subscriptions will not contravene (1) any law, rule, regulation or governmental or judicial decrees, injunctions or orders binding on the Investor or any Account or any investment guideline or restriction applicable to the Investor (or, if applicable, any Account), (2) the charter or bylaws (or equivalent organizational documents) of the Investor (or, if applicable, any Account) or (3) any agreement or instrument to which the Investor or any Account is a party or by which the Investor or any Account or any of their respective assets are bound.

(d) The Investor (or applicable Account) is a resident of the jurisdiction set forth in Exhibit C and, unless otherwise set out in Exhibit A hereto, as applicable, is not acquiring the Notes as a nominee or agent or otherwise for any other person.

(e) The Investor and each Account will comply with all applicable laws and regulations in effect in any jurisdiction in which the Investor or such Account purchases or acquires pursuant to the Subscriptions or sells Notes and will obtain any consent, approval or permission required for such purchases, acquisitions or sales under the laws and regulations of any jurisdiction to which the Investor or such Account is subject or in which the Investor or such Account makes such purchases, acquisitions or sales, and the Company shall not have any responsibility therefor.

(f) The Investor and each Account has received a copy of the Transaction Documents. The Investor acknowledges that: (1) no person has been authorized to give any information or to make any representation concerning the Subscriptions or the Company or any of its subsidiaries, other than as contained in this Subscription Agreement or the Transaction Documents or in the information given by the Company's duly authorized officers and employees in connection with the Investor's examination of the Company and its subsidiaries and the terms of the Subscriptions; and (2) the Company and its subsidiaries do not take any responsibility for, and cannot provide any assurance as to the reliability of, any other information that may have been provided to the Investor. The Investor hereby acknowledges that Raymond James & Associates, Inc. (the "**Placement Agent**") does not take any responsibility for, and can provide no assurance as to the reliability of, the information set forth in the Transaction Documents or any such other information provided or deemed provided to the Investor by the Company.

(g) The Investor and each Account understands and accepts that acquiring the Notes in the Subscriptions involves risks. The Investor and each Account has such knowledge, skill and experience in business, financial and investment matters that the Investor and each Account is capable of evaluating the merits and risks of the Subscriptions and an investment in the Notes. With the assistance of its own professional advisors (to the extent the Investor and each Account has deemed appropriate), the Investor and each Account has made its own legal, tax, accounting and financial evaluation of the merits and risks of an investment in the Notes and the consequences of the Subscriptions and this Subscription Agreement. The Investor and each Account has considered the suitability of the Notes as an investment in light of its own circumstances and financial condition, and the Investor and each Account are able to bear the risks associated with an investment in the Notes. The Investor and each Account understands that it should consult with its own tax advisors in order to determine the U.S. federal, state, local and non-U.S. tax consequences of the ownership, disposition or conversion of the Notes or Underlying Shares, in light of the Investor's and each Account's particular circumstances.

(h) The Investor confirms that neither it nor any Account is relying on any communication (written or oral) of the Company or the Placement Agent or any of their respective agents or affiliates as investment advice or as a recommendation to participate in the Subscriptions and receive the Notes pursuant to the terms hereof. The Investor confirms that it has read the Indenture relating to the Notes and has not relied on any statement (written or oral) of the Company (other than those contained in the Indenture and Subscription Agreement), the Placement Agent or any of their respective affiliates as to the terms of the Notes. It is understood that information provided in the Transaction Documents, or by the Company or the Placement Agent or any of their respective agents or affiliates, shall not be considered investment advice or a recommendation with respect to the Subscriptions, and that none of the Company, the Placement Agent or any of their respective agents or affiliates is acting or has acted as an advisor to the Investor or any Account in deciding whether to participate in the Subscriptions.

(i) The Investor confirms, for itself and for each Account, that neither the Company nor the Placement Agent has (1) given any guarantee or representation as to the potential success, return, effect or benefit (either legal, regulatory, tax, financial, accounting or otherwise) of an investment in the Notes; or (2) made any representation to the Investor regarding the legality of an investment in the Notes under applicable investment guidelines, laws or regulations. In deciding to participate in the Subscriptions, neither the Investor nor any Account is relying on the advice or recommendations of the Company or the Placement Agent, and the Investor and each Account has made its own independent decision that the investment in the Notes is suitable and appropriate for the Investor or such Account.

(j) The Investor and each Account is a sophisticated participant in the transactions contemplated hereby and has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in the Notes, is experienced in investing in capital markets and is able to bear the economic risk of an investment in the Notes. The Investor and each Account is familiar with the business and financial condition and operations of the Company and its subsidiaries and has conducted its own investigation of the Company and its subsidiaries and the Notes and has consulted with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby. The Investor and each Account has had access to the Company's filings with the SEC and such other information concerning the Company and its subsidiaries and the Notes as it deems necessary to enable it to make an informed investment decision concerning the Subscriptions. The Investor and each Account has been offered the opportunity to ask questions of the Company and its representatives and has received answers thereto as the Investor or such Account deems necessary to enable it to make an informed investment decision concerning the Subscriptions and the Notes. Neither such inquiries nor any other due diligence investigations conducted by such Investor or its advisors, or its representatives shall modify, amend or affect such Investor's right to rely on the Company's representations and warranties contained herein.

(k) The Investor and each Account understands that no federal, state, local or foreign agency has passed upon the merits or risks of an investment in the Notes or made any finding or determination concerning the fairness or advisability of such investment.

(l) The Investor and each Account is an institutional "accredited investor" as defined in Rule 501 of Regulation D under the Securities Act as well as a "qualified institutional buyer" as defined in Rule 144A under the Securities Act. The Investor, for itself and on behalf of each Account, agrees to furnish any additional information reasonably requested by the Company to assure its compliance with applicable U.S. federal and state securities laws in connection with the Subscriptions.

(m) The Investor and each Account is not directly, or indirectly through one or more intermediaries, controlling or controlled by, or under direct or indirect common control with, the Company and is not, and has not been for the immediately preceding three months, an "affiliate" (within the meaning of Rule 144 under the Securities Act) of the Company.

(n) n. The Investor and each Account is acquiring the Notes solely for the Investor's or such Account's own beneficial account, or for an account with respect to which the Investor or such Account exercises sole investment discretion, for investment purposes, and not with a view to, or for resale in connection with, any distribution of the Notes. The Investor and each Account understands that the offer and sale of the Notes have not been registered under the Securities Act or any state securities laws by reason of specific exemptions under the provisions thereof that depend in part upon the investment intent of the Investor or each Account and the accuracy of the other representations made by the Investor and each Account in this Subscription Agreement.

(o) The Investor and each Account understands that the Company is relying upon the representations and agreements contained in this Subscription Agreement (and any supplemental information) for the purpose of determining whether the Investor's and such Account's participation in the Subscriptions meets the requirements for the exemptions referenced in clause (p) below. In addition, the Investor and each Account acknowledges and agrees that any hedging transactions engaged in by the Investor or such Account after such Investor or Account accepted the wall cross and prior to the Closing in connection with the issuance and sale of the Notes have been and will be conducted in compliance with the Securities Act and the rules and regulations promulgated thereunder.

(p) The Investor and each Account acknowledges that neither the Notes nor the Underlying Shares have been registered under the Securities Act. As a result, the Notes, and if converted to Underlying Shares, the Underlying Shares, may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act as described in the Indenture (including, but not limited to, the Restricted Note Legend and the Restricted Stock Legend (each as defined in the Indenture) and Section 2.05 of the Indenture), and the Investor, for itself and on behalf of each Account, hereby agrees that neither it nor any Account will sell the Notes nor the Underlying Shares other than in compliance with such transfer restrictions. Further, the Investor and each Account acknowledges that (1) the Notes and, if converted to the Underlying Shares, the Underlying Shares, will carry a restrictive legend and (2) the Notes and, if converted to the Underlying Shares, the Underlying Shares, will be designated with a restricted CUSIP number, in each case until such time as the restrictive legend can be removed in the Company's reasonable judgment or as otherwise required by the Indenture. The Investor and each Account acknowledges that hedging transactions involving the Notes and the Underlying Shares may not be conducted unless in compliance with the Securities Act.

(q) The Investor and each Account acknowledges that the terms of the Subscriptions have been mutually negotiated between the Investor (for itself and on behalf of each Account), and the Company. The Investor was given a meaningful opportunity to negotiate the terms of the Subscriptions on behalf of itself and each Account.

(r) The Investor and each Account acknowledges the Company intends to pay an advisory fee to the Placement Agent.

(s) The Investor will, for itself and on behalf of each Account, upon request, execute and deliver any additional documents, information or certifications reasonably requested by the Company or the Trustee to complete the Subscriptions.

(t) The Investor and each Account understands that, unless the Investor notifies the Company in writing to the contrary prior to the Closing, each of the Investor's representations and warranties contained in this Subscription Agreement will be deemed to have been reaffirmed and confirmed as of the Closing, taking into account all information received by the Investor.

(u) The Investor acknowledges that it and each Account had a sufficient amount of time to consider whether to participate in the Subscriptions. The Investor acknowledges that neither it nor any Account became aware of the Subscriptions through any form of general solicitation or advertising within the meaning of Rule 502 under the Securities Act.

(v) The operations of the Investor and each Account have been conducted in material compliance with the rules and regulations administered or conducted by the U.S. Department of Treasury Office of Foreign Assets Control ("**OFAC**"), the rules and regulations of the Foreign Corrupt Practices Act ("**FCPA**") and the Anti-Money Laundering ("**AML**") rules in the Bank Secrecy Act applicable to the Investor. The Investor has performed due diligence necessary to reasonably determine that its (or, where applicable, any Account's) beneficial owners are not named on the lists of denied parties or blocked persons administered by OFAC, resident in or organized under the laws of a country that is the subject of comprehensive economic sanctions and embargoes administered or conducted by OFAC ("**Sanctions**"), and are not otherwise the subject of Sanctions, except in each case as permitted under Sanctions. The Investor has not been found to be in violation or under suspicion of violating OFAC, FCPA or AML rules and regulations.

(w) The Investor and each Account acknowledges and agrees that the Placement Agent has not acted as a financial advisor or fiduciary to the Investor or such Account and that the Placement Agent and its respective directors, officers, employees, representatives and controlling persons have no responsibility for making, and have not made, any independent investigation of the information contained herein or in the Company's SEC filings and make no representation or warranty to the Investor or such Account, express or implied, with respect to the Company or the Subscriptions or the accuracy, completeness or adequacy of the information provided to the Investor or the Account or any other publicly available information, nor will any of the foregoing persons be liable for any loss or damages of any kind resulting from the use of the information contained therein or otherwise supplied to the Investor or such Account.

(x) The Investor and each Account acknowledges and agrees that no public market exists for the Notes and that there is no assurance that a public market will ever develop for the Notes.

6. Conditions to Obligations of the Investor and the Company.

(a) The obligation of the Investor to deliver, or to cause the Accounts to deliver, the Cash Purchase Price is subject to the satisfaction at or prior to the Closing of the following conditions precedent:

(i) the representations and warranties of the Company contained in Section 4 shall be true and correct as of the Closing in all material respects with the same effect as though such representations and warranties had been made as of the Closing;

(ii) subsequent to the date of this Agreement, there shall not have occurred any material adverse change, or any development involving a prospective material adverse change, in or affecting the general financial condition or results of operations or business of the Company and its subsidiaries, taken as a whole.

(iii) the closing of Other Subscription Agreements covering not less than $70 million aggregate principal amount of Notes shall occur simultaneously with the Closing.

(iv) the Company shall have complied with Section 7 and all Cleansing Information shall have been publicly disclosed at or prior to the Release Time.

(b) The obligation of the Company to deliver the Notes is subject to the satisfaction at or prior to the Closing of the condition precedent that the representations and warranties of the Investor contained in Section 5 shall be true and correct as of the Closing in all material respects with the same effect as though such representations and warranties had been made as of the Closing.

7. Covenant and Acknowledgment of the Company. The Company hereby agrees to publicly disclose at or prior to 8:00 a.m., New York City time (the "**Release Time**"), on the first business day after the date hereof, the Subscriptions as contemplated by this Subscription Agreement in a press release or through the filing of a Current Report on Form 8-K. Such disclosure shall include all Cleansing Information (as defined in Section 4(l)), and information regarding the Company's results, guidance or outlook for any fiscal period shall be treated as so disclosed only if included in the Company's earnings release or other public filing or press release made at or prior to the Release Time. From and after the Release Time, neither the Investor nor any Account shall be subject to any duty of confidentiality, standstill or restriction on trading in, or hedging with respect to, any securities of the Company owed to the Company or the Placement Agent. The Company hereby acknowledges and agrees that: (a) as of the Release Time the Company will disclose all confidential information to the extent the Company believes such confidential information constitutes material non-public information, if any, with respect to the Subscriptions or that was otherwise communicated by the Company to the Investor or any Account in connection with the Subscriptions; and (b) the Investor will rely on such disclosure for the purpose of transacting in the Notes and Stock. For the avoidance of doubt, the Company may be aware of material non-public information regarding the Company at the time of Closing that has not been communicated to the Investor or any Account. The Company will, no later than 5:30 p.m., New York City Time on the first business day following the Closing, file a Current Report on Form 8-K publicly disclosing the closing of the Subscriptions as contemplated by this Subscription Agreement.

8. Covenant of the Investor. No later than one (1) business day after the date hereof, the Investor agrees to deliver settlement instructions for each Subscriber to the Company substantially in the form of Exhibit C hereto.

9. Waiver, Amendment. Neither this Subscription Agreement nor any provisions hereof shall be modified, changed, discharged or terminated except by an instrument in writing, signed by the party against whom any waiver, change, discharge or termination is sought.

10. Assignability. Neither this Subscription Agreement nor any right, remedy, obligation or liability arising hereunder or by reason hereof shall be assignable by the Company or the Investor without the prior written consent of the other party.

11. Withholding. The Company and its agents shall be entitled to deduct and withhold from any amounts payable or deliverable pursuant to the Notes such amounts as are required (as determined in good faith by the applicable withholding agent) to be deducted or withheld under applicable law. To the extent any amounts are withheld and remitted to the appropriate taxing authority (including, for the avoidance of doubt, due to the failure or inability of an Investor (or Account(s) of such Investor, if applicable) to deliver properly completed and duly executed Internal Revenue Service Form W-9 or the appropriate series of Internal Revenue Service Form W-8 (and all required attachments) establishing an exemption from withholding and backup withholding), such amounts shall be treated for all purposes of the Notes as having been paid or delivered to the Subscriber to whom such amounts otherwise would have been paid or delivered. The Investor further acknowledges that any Subscriber may be subject to U.S. federal withholding or backup withholding (currently at rates of 30% and 24%, respectively) on certain payments or deliveries made to such Subscriber unless such Subscriber properly establishes an exemption from, or a reduced rate of, such withholding or backup withholding.

12. Waiver of Jury Trial. EACH OF THE COMPANY AND THE INVESTOR (FOR ITSELF AND, IF APPLICABLE, ON BEHALF OF EACH ACCOUNT) IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF THE TRANSACTIONS CONTEMPLATED BY THIS SUBSCRIPTION AGREEMENT.

13. Governing Law. THIS SUBSCRIPTION AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

14. Submission to Jurisdiction. Each of the Company and the Investor (for itself and, if applicable, on behalf of each Account) (a) agrees that any legal suit, action or proceeding arising out of or relating to this Subscription Agreement or the transactions contemplated hereby shall be instituted exclusively in the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York; (b) waives any objection that it may now or hereafter have to the venue of any such suit, action or proceeding; and (c) irrevocably consents to the jurisdiction of the aforesaid courts in any such suit, action or proceeding. Each of the Company and the Investor (for itself and, if applicable, on behalf of each Account) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

15. Venue. Each of the Company and the Investor (for itself and, if applicable, on behalf of each Account) irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Subscription Agreement in any court referred to in Section 14. Each of the Company and the Investor (for itself and, if applicable, on behalf of each Account) irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

16. Service of Process. Each of the Company and the Investor (for itself and, if applicable, on behalf of each Account) irrevocably consents to service of process in the manner provided for notices in Section 19. Nothing in this Subscription Agreement will affect the right of any party to this Subscription Agreement to serve process in any other manner permitted by law.

17. Section and Other Headings. The section and other headings contained in this Subscription Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Subscription Agreement.

18. Counterparts. This Subscription Agreement may be executed, either manually or by way of a digital signature provided by Docusign (or similar digital signature provider), by one or more of the parties hereto in any number of separate counterparts (including by facsimile or other electronic means, including telecopy, email or otherwise), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Subscription Agreement (whether executed manually or by way of a digital signature as described in this Section 18) by facsimile or other transmission (e.g., "pdf" or "tif" format) shall be effective as delivery of a manually executed counterpart hereof.

19. Notices. All notices and other communications to the Company provided for herein shall be in writing and shall be deemed to have been duly given if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid to the following addresses or pursuant to the following email addresses, or, in the case of the Investor or any Account, the address provided in Exhibit C (or such other address as either party shall have specified by notice in writing to the other):

If to the Company:

Proficient Auto Logistics, Inc.
12276 San Jose Blvd.
Suite 426
Jacksonville, Florida 32223
Email: bwright@proautologistics.com

20. Binding Effect. The provisions of this Subscription Agreement shall be binding upon and accrue to the benefit of the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

21. Notification of Changes. The Investor (for itself and, if applicable, on behalf of each Account) hereby covenants and agrees to notify the Company upon the occurrence of any event prior to the Closing that would cause any representation, warranty, or covenant of the Investor (and/or such Account) contained in this Subscription Agreement to be false or incorrect.

22. Reliance by Placement Agent. The Placement Agent may rely on each representation and warranty of the Company and the Investor made herein or pursuant to the terms hereof (including, without limitation, in any officer's certificate delivered pursuant to the terms hereof) with the same force and effect as if such representation or warranty were made directly to the Placement Agent. The Placement Agent shall be a third party beneficiary to this Subscription Agreement to the extent provided in this Section 22.

23. Entire Agreement. This Subscription Agreement constitutes the entire agreement between the Company and the Investor (for itself and, if applicable, on behalf of each Account) with respect to the subject matters hereof.

24. Severability. If any term or provision (in whole or in part) of this Subscription Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Subscription Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Investor (for itself and, if applicable, on behalf of each Account) has executed this Subscription Agreement as of the date first written above.

Legal Name of Executing Investor:

By: _____
Name:
Title:
Legal Name:

ACCEPTED AND AGREED:

Proficient Auto Logistics, Inc.

By: _____
Name:
Title:

[*Signature Page to Subscription Agreement*]

EXHIBIT A

SUBSCRIPTION

Participating Accounts, Allocation of Aggregate Principal Amount of Notes and Cash Purchase Price:

Name of Subscriber	Aggregate Principal Amount of Notes	Cash Purchase Price
	$	$
Total:	$	$

EXHIBIT B

NOTICE OF SUBSCRIPTION PROCEDURES

Attached are Subscription Procedures for the settlement of the subscription for Proficient Auto Logistics, Inc. (the "Company") Convertible Senior Notes due 2033 (the "Notes") pursuant to the Subscription Agreement, dated as of August 10, 2026, between you and the Company which is expected to occur on or about August 13, 2026. To ensure timely settlement, please follow the instructions for subscribing for Notes as set forth on the following page.

These instructions supersede any prior instructions you received. Your failure to comply with the attached instructions may delay your receipt of the Notes.

If you have any questions, please contact Brad Wright at bwright@proautologistics.com.

Thank you.

To receive Notes

You must BOTH:

1. Direct your eligible DTC participant through which you wish to hold a beneficial interest in the Notes to post and accept on August 13, 2026, no later than 9:00 a.m., New York City time, a one-sided deposit instruction through DTC via DWAC for the aggregate principal amount of Notes (CUSIP/ISIN #: 74317MAA2 / US74317MAA27 set forth in column 2 of Exhibit A ("Notes") of the Subscription Agreement.

   It is important that this instruction be submitted and the DWAC posted on August 13, 2026, no later than 9:00 a.m., New York City time.

   AND

2. **No later than** 10:00 a.m., **New York City time, on August 13, 2026**, you must pay the Cash Purchase Price set forth in column 3 of Exhibit A [1] ("**Cash Purchase Price**") of the Subscription Agreement by wire transfer in immediately available funds to the following account of the Company:

[1] The Cash Purchase Price is the amount of cash that you must wire to the Company in connection with your purchase of Notes.

EXHIBIT C TO THE SUBSCRIPTION AGREEMENT

Subscriber Settlement Details

These settlement instructions are to be delivered to the Company for each Subscriber no later than one (1) business day after the date of the Subscription Agreement.

Name of Subscriber: _____
Subscriber Address: _____
_____
_____
_____

SETTLEMENT

On August 13, 2026, after the Company receives your Cash Purchase Price and your delivery instructions as set forth above, and subject to the satisfaction of the conditions to closing as set forth in your Subscription Agreement, the Company will deliver your Notes in accordance with the delivery instructions set forth above.

Telephone: _____
Email Address: _____
Country of Residence: _____
Taxpayer Identification Number: _____
DTC Participant Information for Delivery of Notes

_____
DTC Participant Number:

_____
DTC Participant Name:

_____
DTC Participant Phone Number:

_____
DTC Participant Contact Email:

_____
FFC Account #:

_____
Account # at Bank/Broker:

Exhibit 10.2

To: Proficient Auto Logistics, Inc.
12276 San Jose Blvd.
Suite 426
Jacksonville, Florida 32223
Attention: [ ]
Telephone: [ ]
Email: [ ]

From: [Dealer's Name]
[Dealer's Address and Contact Details]

Re: Capped Call Transaction

Date: [ ], 2026

Dear Ladies and Gentlemen:

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between [Dealer Name] ("**Dealer**") and Proficient Auto Logistics, Inc. ("**Counterparty**"). This communication constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case, as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**").

This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the "**Agreement**") in the form of the 2002 ISDA Master Agreement as if Dealer and Counterparty had executed an agreement in such form on the Trade Date (but without any Schedule except for (i) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine other than New York General Obligations Law Section 5-1401), the election of USD as the Termination Currency; (ii) the election that the "Cross Default" provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer, (a) with a "Threshold Amount" of 3% of the shareholders' equity of [Dealer] [Dealer Parent] on the Trade Date, (b) "Specified Indebtedness" having the meaning set forth in Section 14 of the Agreement, except that it shall not include any obligation in respect of deposits received in the ordinary course of Dealer's banking business, (c) the phrase ", or becoming capable at such time of being declared," shall be deleted from clause (1) of such Section 5(a)(vi) of the Agreement, and (d) the following sentence shall be added to the end of Section 5(a)(vi) of the Agreement: "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (i) the default was caused solely by error or omission of an administrative or operational nature; (ii) funds were available to enable the relevant party to make payment when due; and (iii) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay").

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between the 2006 Definitions, the Equity Definitions, this Confirmation or the Agreement, the following will prevail for purposes of the Transaction in the order of precedence indicated: (i) this Confirmation, (ii) the Equity Definitions, (iii) the 2006 Definitions, and (iv) the Agreement.

The Transaction hereunder shall be the sole Transaction under the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The Transaction constitutes a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	[ ], 2026
Effective Date:	[ ], 2026, or such other date as agreed by the parties in writing.
Components:	The Transaction will be divided into individual Components, each with the terms set forth in this Confirmation, and, in particular, with the Number of Options and Expiration Date set forth in Annex A to this Confirmation. The exercise, valuation and settlement of the Transaction will be effected separately for each Component as if each Component were a separate Transaction under the Agreement.
Option Style:	"European", as described under "Procedures for Exercise" below.
Option Type:	Call
Seller:	Dealer
Buyer:	Counterparty
Shares:	The common stock of Counterparty, USD 0.01 par value (Ticker Symbol: "PAL")
Number of Options:	For each Component, as provided in Annex A to this Confirmation.[1]
Option Entitlement:	One Share Per Option
Strike Price:	USD [_____]
Cap Price:	USD [_____]; *provided* that in no event shall the Cap Price be reduced to an amount less than the Strike Price in connection with any adjustment by the Calculation Agent under this Confirmation.
Number of Shares:	As of any date, a number of Shares equal to the product of (i) the Number of Options and (ii) the Option Entitlement.

[1] Equal to (i) the number of Convertible Notes in principal amount of $1,000 initially issued on the closing date for the Convertible Notes (excluding any Convertible Notes sold pursuant to the over-allotment option), multiplied by (ii) the percentage of the total capped call trade allocated to Dealer, multiplied by (iii) the initial conversion rate.

Premium:	USD [_____] (Premium per Option approximately USD [___]); Dealer and Counterparty hereby agree that notwithstanding anything to the contrary herein or in the Agreement, following the payment of the Premium, in the event that (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement that is within the Counterparty's control) occurs or is designated with respect to any Transaction and, as a result, Counterparty owes to Dealer the amount calculated under Section 6(d) and Section 6(e) or otherwise under the Agreement (calculated as if the Transactions terminated on such Early Termination Date were the sole Transactions under the Agreement) or (b) Counterparty owes to Dealer, pursuant to Sections 12.2, 12.3, 12.6, 12.7, 12.8 or 12.9 of the Equity Definitions or otherwise under the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
Premium Payment Date:	The Effective Date
Exchange:	The NASDAQ Global Market
Related Exchange:	All Exchanges; *provided* that Section 1.26 of the Equity Definitions shall be amended to add the words "United States" before the word "exchange" in the tenth line of such Section.

Procedures for Exercise:

Expiration Time:	The Valuation Time
Expiration Date:	For any Component, as provided in Annex A to this Confirmation (or, if such date is not a Scheduled Valid Day, the next following Scheduled Valid Day that is not already an Expiration Date for another Component); *provided* that if that date is a Disrupted Day, the Expiration Date for such Component shall be the first succeeding Scheduled Valid Day that is not a Disrupted Day and is not or is not deemed to be an Expiration Date in respect of any other Component of the Transaction hereunder; and *provided further* that in no event shall the Expiration Date be postponed to a date later than the Final Termination Date and, notwithstanding anything to the contrary in this Confirmation or the Equity Definitions, the Relevant Price for such Expiration Date that occurs on the Final Termination Date and is a Disrupted Day shall be the prevailing market value per Share determined by the Calculation Agent in a commercially reasonable manner. Notwithstanding the foregoing and anything to the contrary in the Equity Definitions, if a Market Disruption Event occurs on any Expiration Date, the Calculation Agent may determine in good faith and in a commercially reasonable manner that such Expiration Date is a Disrupted Day only in part, in which case the Calculation Agent shall make commercially reasonable adjustments to the Number of Options for the relevant Component for which such day shall be the Expiration Date, shall designate the Scheduled Valid Day determined in the manner described in the immediately preceding sentence as the Expiration Date for the remaining Options for such Component and may determine the Relevant Price in a commercially reasonable manner based on transactions in the Shares on such Disrupted Day taking into account the nature and duration of such Market Disruption Event on such day. Any Scheduled Valid Day on which, as of the date hereof, the Exchange is scheduled to close prior to its normal close of trading shall be deemed not to be a Scheduled Valid Day; if a closure of the Exchange prior to its normal close of trading on any Scheduled Valid Day is scheduled following the date hereof, then such Scheduled Valid Day shall be deemed to be a Disrupted Day in full**.** Section 6.6 of the Equity Definitions shall not apply to any Valuation Date occurring on an Expiration Date.

Final Termination Date:	[ ], 20[ ][2]
Automatic Exercise:	Applicable, which means that the Number of Options for the relevant Component will be deemed to be automatically exercised at the Expiration Time on the Expiration Date for such Component if at such time such Component is In-the-Money, unless Buyer notifies Seller (in writing) prior to the Expiration Time on such Expiration Date that it does not wish Automatic Exercise to occur with respect to such Component, in which case Automatic Exercise will not apply with respect to such Component. "**In-the-Money**" means, in respect of any Component, that the Relevant Price on the Expiration Date for such Component is greater than the Strike Price for such Component.
Valuation Time:	At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in a commercially reasonable manner.
Valuation Date:	For any Component, the Expiration Date therefor.
Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby amended by deleting the words "during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be," in clause (ii) thereof. Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term "Scheduled Closing Time" in the fourth line thereof.

Settlement Terms:

Settlement Method Election:	Applicable; *provided* that (a) Section 7.1 of the Equity Definitions is hereby amended by replacing the term "Physical Settlement" with the term "Net Share Settlement", (b) Counterparty must make a single irrevocable election for all Components and (c) if Counterparty is electing Cash Settlement, such Settlement Method Election would be effective only if Counterparty represents and warrants to Dealer in writing on the date of such Settlement Method Election that (i) Counterparty is not in possession of any material non-public information regarding Counterparty or the Shares, and (ii) such election is being made in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws. Without limiting the generality of the foregoing, Counterparty acknowledges its responsibilities under applicable securities laws, and in particular Sections 9 and 10(b) of the Exchange Act and the rules and regulations promulgated thereunder in respect of such election.

[2]To be 60 Scheduled Trading Days following the last scheduled Expiration Date.

Electing Party:	Counterparty
Settlement Method Election Date:	The second Scheduled Valid Day prior to the scheduled Expiration Date for the Component with the earliest scheduled Expiration Date.
Default Settlement Method:	Net Share Settlement
Net Share Settlement:	With respect to any Component, if Net Share Settlement is applicable to the Options exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Component, a number of Shares (the "**Net Share Settlement Amount**") equal to (i) the Daily Option Value on the Expiration Date of such Component *divided by* (ii) the Relevant Price on such Expiration Date. Dealer will deliver cash in lieu of any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the Expiration Date of such Component.
Cash Settlement:	With respect to any Component, if Cash Settlement is applicable to the Options exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for such Component, an amount of cash (the "Cash Settlement Amount") equal to the Daily Option Value on the Expiration Date of such Component.
Daily Option Value:	For any Component, an amount equal to (i) the Number of Options in such Component, *multiplied by* (ii) the Option Entitlement, *multiplied by* (iii) (A) the lesser of the Relevant Price on the Expiration Date of such Component and the Cap Price, minus (B) the Strike Price on such Expiration Date; *provided* that if the calculation contained in clause (iii) above results in a negative number, the Daily Option Value for such Component shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the Exchange. If the Shares are not listed, quoted or traded on any U.S. securities exchange or any other market, "**Valid Day**" means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the Exchange. If the Shares are not listed, quoted or traded on any U.S. securities exchange or any other market, "**Scheduled Valid Day**" means a Business Day.
Business Day:	Any day other than a Saturday, a Sunday or other day on which banking institutions are authorized or required by law, regulation or executive order to close or be closed in the State of New York.

Relevant Price:	On any Valid Day, the per Share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "PAL <equity> AQR" (or its equivalent successor if such page is not available) at 4:15 p.m. New York time (or 15 minutes following the end of any extension of the regular trading session) on such Valid Day (the "**VWAP**") in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is not so reported at such time or the Calculation Agent reasonably determines that it is not accurate, the volume-weighted average price at which the Shares traded on such Valid Day, as determined by the Calculation Agent in a commercially reasonable manner using a volume-weighted average method substantially similar to the method for determining the VWAP). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.
Settlement Date:	For all Components of the Transaction, the date one Settlement Cycle immediately following the Expiration Date for the Component with the latest scheduled Expiration Date.
Settlement Currency:	USD
Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9, 9.11 and 9.12 of the Equity Definitions will be applicable, except that all references in such provisions to "Physically-settled" shall be read as references to "Net Share Settlement."
Representation and Agreement:	Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions, obligations and limitations arising from Counterparty's status as issuer of the Shares under applicable securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be "restricted securities" (as defined in Rule 144 under the Securities Act of 1933, as amended (the "**Securities Act**")).

Adjustments:

Method of Adjustment:	Calculation Agent Adjustment *provided* that the parties agree that (x) open market Share repurchases at prevailing market price and (y) Share repurchases through a dealer pursuant to accelerated share repurchases, forward contracts or similar transactions (including, without limitation, any discount to average VWAP prices) that are entered into at prevailing market prices and in accordance with customary market terms for transactions of such type to repurchase the Shares shall not be considered Potential Adjustment Events; *provided further* that any such open market Share repurchases at prevailing market price or the entry into any such accelerated share repurchase transaction, forward contract or similar transaction described in the immediately preceding proviso shall constitute a Potential Adjustment Event to the extent that, after giving effect to such transaction, the aggregate number of Shares repurchased during any calendar year would exceed 15% of the greater of (1) the number of Shares outstanding as of the Trade Date, and (2) the number of Shares outstanding as of the end of the Issuer's most recently completed fiscal year, as determined by Calculation Agent.

Extraordinary Events:

New Shares:	In the definition of New Shares in Section 12.1(i) of the Equity Definitions, (a) the text in clause (i) thereof shall be deleted in its entirety and replaced with "publicly quoted, traded or listed on any of the New York Stock Exchange, the NASDAQ Global Market or the NASDAQ Global Select Market (or their respective successors)," and (b) the following phrase shall be inserted immediately prior to the period: "and (iii) of a corporation organized under the laws of the United States, any State thereof or the District of Columbia that (x) also becomes the Counterparty under the Transaction or (y) agrees to be subject to Sections 8(d) and 8(e) of the Confirmation governing the Transaction, in either case, following such Merger Event or Tender Offer".
Merger Events:	Applicable.
Consequences of Merger Events:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination)
(c) Share-for-Combined:	Cancellation and Payment (Calculation Agent Determination); *provided* that the Calculation Agent may elect Component Adjustment for all or part of the Transaction.
Tender Offer:	Applicable; *provided* that Section 12.1(e) of the Equity Definitions shall be amended by replacing (i) "voting shares" in the first line thereof with "Shares", and Section 12.1(l) of the Equity Definitions shall be amended by replacing "voting shares" in the fifth line thereof with "Shares" and (ii) the phrase "greater than 10% and less than 100% of the outstanding voting shares of the Counterparty" in the third and fourth line thereof with "greater than 20% and less than 100% of the outstanding Shares of the Counterparty".
Consequences of Tender Offers:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Modified Calculation Agent Adjustment
(c) Share-for-Combined:	Modified Calculation Agent Adjustment

Consequences of Announcement Events:	Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (x) references to "Tender Offer" shall be replaced by references to "Announcement Event" and references to "Tender Offer Date" shall be replaced by references to "date of such Announcement Event", (y) the phrase "exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)" in the third and fourth lines of the definition of Modified Calculation Agent Adjustment set forth in Section 12.3(d) shall be replaced with the phrase "Cap Price (*provided* that in no event shall the Cap Price be less than the Strike Price)" and the words "whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event" shall be inserted prior to the word "which" in the seventh line thereof, and (z) for the avoidance of doubt, the Calculation Agent shall, in a commercially reasonable manner, determine whether the relevant Announcement Event has had a material economic effect on the Transaction and, if so, shall adjust the Cap Price accordingly to take into account such economic effect on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that (i) any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement and (ii) in making any adjustment the Calculation Agent may take into account such factors including, but not limited to, changes in stock price, volatility, expected dividends, stock loan rate, and liquidity relevant to the Shares or to such Transaction. An Announcement Event shall be an "Extraordinary Event" for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable; *provided further* that upon the Calculation Agent making an adjustment, determined in a commercially reasonable manner, to the Cap Price upon any Announcement Event, then the Calculation Agent shall make an adjustment to the Cap Price upon any announcement of the abandonment of the event that gave rise to the original Announcement Event to the extent necessary to reflect the economic effect of such subsequent announcement on the Transaction (*provided* that in no event shall the Cap Price be less than the Strike Price).
Announcement Event:	(i) The public announcement (whether by Counterparty or a Valid Third Party Entity) of any Merger Event or Tender Offer, or the announcement by Counterparty of any intention to enter into a Merger Event or Tender Offer, (ii) the public announcement (whether by Counterparty or a Valid Third Party Entity) of any potential acquisition or disposition by Counterparty and/or its subsidiaries where the consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an "**Acquisition Transaction**"), (iii) the public announcement (whether by Counterparty or a Valid Third Party Entity) of an intention by Counterparty or such Valid Third Party Entity to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include, a Merger Event, Tender Offer or Acquisition Transaction, or (iv) any subsequent public announcement (whether by Counterparty or a Valid Third Party Entity) of a change to a transaction or intention that is the subject of an announcement of the type described in clause (i), (ii) or (iii) of this sentence (including, without limitation, a new announcement relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention); *provided* that, for the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention.

Valid Third Party Entity:	In respect of any transaction, any third party, including any subsidiary or affiliate of Counterparty, that has a bona fide and commercially reasonable intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).
Notice of Merger Consideration and Consequences:	Upon the occurrence of a Merger Event that causes the Shares to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but in any event prior to the relevant Merger Date) notify the Calculation Agent of (i) the type and amount of consideration that a holder of Shares would have been entitled to in the case of reclassifications, consolidations, mergers, sales or transfers of assets or other transactions that cause Shares to be converted into the right to receive more than a single type of consideration and (ii) the weighted average of the types and amounts of consideration to be received by the holders of Shares that affirmatively make such an election.
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors). If the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

(a) Change in Law:	Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the parenthetical beginning after the word "regulation" in the second line thereof with the words "(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)", (ii) replacing the phrase "the interpretation" in the third line thereof with the phrase ", or public announcement of, the formal interpretation", (iii) by adding the phrase "and/or type of Hedge Position that would be entered into by a commercially reasonable dealer" after the word "Shares" in clause (X) thereof, and (iv) adding the phrase ", or holding, acquiring or disposing of Shares or any Hedge Positions relating to," after the words "obligations under" in clause (Y) thereof.

(b) Failure to Deliver:	Applicable
(c) Insolvency Filing:	Applicable
(d) Hedging Disruption:	Applicable; *provided* that: (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by (a) inserting the following words at the end of clause (A) thereof: "in the manner contemplated by the Hedging Party on the Trade Date" and (b) inserting the following two phrases at the end of such Section: "For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in clauses (A) or (B) above must be available on commercially reasonable pricing terms."; (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption;" and (iii) it shall not be a Hedging Disruption if such inability occurs solely due to the deterioration of the creditworthiness of the Hedging Party.
(e) Increased Cost of Hedging:	Not Applicable
Hedging Party:	Dealer
Determining Party:	For all applicable Extraordinary Events, Dealer, *provided* that, following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty, Determining Party will promptly (but in any event within five Scheduled Trading Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information. All calculations and determinations made by Determining Party shall be made in good faith and in a commercially reasonable manner.

Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable

3. **Calculation Agent**: Dealer; *provided* that, following the occurrence and during the continuance of an Event of Default pursuant to Section 5(a)(vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, Counterparty shall have the right to designate a nationally recognized third party dealer in over-the-counter corporate equity derivatives to replace Dealer as the Calculation Agent, and the parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.

Following any adjustment, determination or calculation by the Calculation Agent hereunder (or, for the avoidance of doubt, by Dealer acting in its capacity as Dealer or in any other capacity, including as Hedging Party or Determining Party, hereunder), the Calculation Agent will promptly provide to Counterparty upon a written request by Counterparty in writing a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail such adjustment, determination or calculation and the basis thereof (including any assumptions and any quotations, market data or other information, whether from internal or external sources, used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

4. **Account Details**:

Dealer Payment Instructions: To be advised.

Counterparty Payment Instructions: To be advised.

5. **Offices**:

The Office of Dealer for the Transaction is: [_____][3]

The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.

[3] Dealer to advise.

6. **Notices**: For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty:

Proficient Auto Logistics, Inc.
12276 San Jose Blvd.
Suite 426
Jacksonville, Florida 32223
Attention: [ ]
Telephone: [ ]
Email: [ ]

(b) Address for notices or communications to Dealer:[4]

[_____]
Attention: [_____]
Telephone No. [_____]
Email: [_____]

Notwithstanding anything to the contrary in the Agreement, any notice or other communication delivered by electronic messaging system or email shall be deemed to be "in writing," and either party may deliver to the other party a notice relating to any Event of Default or Termination Event under this Confirmation by any such communication.

7. **Representations, Warranties and Agreements**:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date (A) none of Counterparty and its officers and directors is aware of any material non-public information regarding Counterparty or the Shares, and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Exchange Act when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) On the Trade Date, (A) the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a "restricted period," as such term is defined in Regulation M, and (B) Counterparty is not engaged in any "distribution," as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in Rules 101(b)(10) and 102(b)(7) or Rule 102(c)(1)(i) of Regulation M.

(iii) On the Trade Date, neither Counterparty nor any "affiliate" or "affiliated purchaser" (each as defined in Rule 10b-18) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer. Neither the foregoing nor anything herein to the contrary shall (a) limit Counterparty's ability, pursuant to any issuer "plan" (as defined in Rule 10b-18), to re-acquire Shares from employees in connection with such plan, (b) limit Counterparty's ability to withhold Shares to cover tax liabilities associated with such a plan, (c) prohibit any purchases effected by or for an issuer "plan" by an "agent independent of the issuer" (each as defined in Rule 10b-18), (d) otherwise restrict Counterparty's or any of its affiliates' ability to repurchase Shares under privately negotiated, off-exchange transactions with any of its employees, officers, directors, affiliates or any third party that are not expected to result in market transactions or (e) limit Counterparty's ability to grant stock and options to "affiliated purchasers" (as defined in Rule 10b-18) or the ability of such affiliated purchasers to acquire such stock or options in connection with any issuer "plan" (as defined in Rule 10b-18) for directors, officers and employees or any agreements with respect to any such plan for directors, officers or employees of any entities that are acquisition targets of Counterparty, and in connection with any such purchase under (a) through (e) above, Counterparty will be deemed to represent to Dealer that such purchase does not constitute a "Rule 10b-18 purchase" (as defined in Rule 10b-18).

[4] Dealer to complete.

(iv) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that neither Dealer nor any of its affiliates is making any representations or warranties or taking any position or expressing any view with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, or ASC Topic 480, *Distinguishing Liabilities from Equity* and ASC Topic 815-40, *Derivatives and Hedging – Contracts in Entity's Own Equity* (or any successor issue statements).

(v) Without limiting the generality of Section 3(a)(iii) of the Agreement, the Transaction will not violate Rule 13e-1 or Rule 13e-4 under the Exchange Act.

(vi) Prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty's board of directors authorizing the Transaction.

(vii) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(viii) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as, an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(ix) On each of the Trade Date, the Premium Payment Date and immediately after giving effect to Transaction on the Premium Payment Date, (A) the value of the total assets of Counterparty is greater than the sum of the total liabilities (including contingent liabilities) and the capital (as such terms are defined in Section 154 and Section 244 of the General Corporation Law of the State of Delaware) of Counterparty, (B) the capital of Counterparty is adequate to conduct the business of Counterparty, and Counterparty's entry into the Transaction will not impair its capital, (C) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, and does not believe that it will, incur debt beyond its ability to pay as such debts mature, (D) Counterparty will be able to continue as a going concern; (E) Counterparty is not, and will not be, "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")) and (F) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of the jurisdiction of Counterparty's incorporation (including the adequate surplus and capital requirements of Sections 154 and 160 of the General Corporation Law of the State of Delaware.

(x) No U.S. state or local law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement imposed upon Counterparty (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares.

(xi) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities, (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing, and (C) has total assets of at least USD 50 million as of the date hereof.

(xii) The assets of Counterparty do not constitute "plan assets" within the meaning of 29 C.F.R. § 2510.3-101, as modified by Section 3(42) of the Employee Retirement Income Security Act of 1974, as amended.

(b) Each of Dealer and Counterparty agrees and represents that it is an "eligible contract participant" as defined in Section 1a(18) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act, by virtue of Section 4(a)(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment and its investments in and liabilities in respect of the Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with the Transaction, including the loss of its entire investment in the Transaction, (ii) it is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account and without a view to the distribution or resale thereof, (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws, and (v) its financial condition is such that it has no need for liquidity with respect to its investment in the Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness and is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction.

(d) Each of Dealer and Counterparty agrees and acknowledges that Dealer is a "financial institution," "swap participant" and "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge (A) that this Confirmation is (i) a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment" within the meaning of Section 546 of the Bankruptcy Code, and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "transfer" within the meaning of Section 546 of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(17), 362(b)(27), 362(o), 546(e), 546(g), 546(j), 548(d)(2), 555, 560 and 561 of the Bankruptcy Code.

(e) As a condition to the effectiveness of the Transaction, Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Effective Date and acceptable to Dealer in form and substance, with respect to the matters set forth in Sections 3(a)(i), (ii), (iii), (iv) and (v) of the Agreement and Section 7(a)(viii) hereof.

(f) Counterparty understands that notwithstanding any other relationship between Counterparty and Dealer and its affiliates, in connection with the Transaction and any other over-the-counter derivative transactions between Counterparty and Dealer or its affiliates, Dealer or its affiliates is acting as principal and is not a fiduciary or advisor in respect of any such transaction, including any entry, exercise, amendment, unwind or termination thereof.

8. **Other Provisions**:

(a) *Right to Extend*. Dealer may divide any Component into additional Components and designate the Expiration Date and the Number of Options for each such Component if Dealer determines, in good faith and a reasonable manner, that such further division would be necessary or advisable to preserve a commercially reasonable dealer's hedging or hedge unwind activity with respect to the Transaction in light of existing liquidity conditions or to enable such a dealer to purchase or sell Shares or enter into swap or other derivatives transactions with respect to Shares in connection with its hedging, hedge unwind or settlement activity with respect to the Transaction in a manner that would, if such dealer were Counterparty or an affiliated purchaser of Counterparty, be compliant and consistent with applicable legal, regulatory or self-regulatory requirements generally applicable to transactions of the type of the Transaction; *provided* that in no event shall any Expiration Date for any Component be postponed to a date later than the Final Termination Date.

(b) *Additional Termination Events*.

(i) Promptly (but in any event within ten Scheduled Trading Days) following any repurchase, redemption or conversion of any of the Counterparty's [•]% Convertible Senior Notes due [•] (the "**Convertible Notes**") issued pursuant to Counterparty's indenture, to be dated [•], 2026 between Counterparty and U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**"), (the "**Indenture**"), Counterparty may notify Dealer in writing of (i) such repurchase, redemption or conversion, (ii) the number of Convertible Notes so repurchased, redeemed or converted and (iii) the number of Shares underlying each USD 1,000 principal amount of Convertible Notes (any such notice, a "**Repurchase Notification**" and any such event, a "**Repurchase Event**"). Notwithstanding anything to the contrary in this Confirmation, the receipt by Dealer from Counterparty of (x) any Repurchase Notification, within the applicable time period set forth in the preceding sentence, and (y) a written representation and warranty by Counterparty that, as of the date of such Repurchase Notification, Counterparty is not in possession of any material non-public information regarding Counterparty or the Shares, shall constitute an Additional Termination Event as provided in this paragraph. Upon receipt of any such Repurchase Notification and the related written representation and warranty, Dealer shall promptly designate an Exchange Business Day following receipt of such Repurchase Notification as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Repurchase Options**") equal to the lesser of (A) the aggregate number of Shares underlying the number of Convertible Notes specified in such Repurchase Notification, divided by the Option Entitlement and (B) the aggregate Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the aggregate Number of Options shall be reduced by the number of Repurchase Options on a pro rata basis across all Components, as determined by the Calculation Agent. Any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and an aggregate Number of Options equal to the number of Repurchase Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction.

[Reserved]

(c) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to all holders of Shares consists solely of cash, (ii) a Merger Event or Tender Offer that is within Counterparty's control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within the Counterparty's control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) and 6(e) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a "**Payment Obligation**"), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below) unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) as of the date of such election, Counterparty represents that is not in possession of any material non-public information regarding Counterparty or the Shares, and that such election is being made in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws, and (c) Dealer agrees, in its reasonable discretion, to such election, in which case the provisions of Section 12.7 or 12.9 of the Equity Definitions, or the provisions of Sections 6(d)(ii) and 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:	If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Sections 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation. For the avoidance of doubt, the parties agree that in determining the Share Termination Delivery Unit Price the Calculation Agent may consider a variety of factors, including the market price of the Share Termination Delivery Units and/or the purchase price paid in connection with the commercially reasonable purchase of Share Termination Delivery Property.
Share Termination Delivery Unit:	One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the "**Exchange Property**"), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent.
Failure to Deliver:	Applicable
Other Applicable Provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption "Representation and Agreement" in Section 2 of this Confirmation will be applicable, except that all references in such provisions to "Physically-settled" shall be read as references to "Share Termination Settled" and all references to "Shares" shall be read as references to "Share Termination Delivery Units". "Share Termination Settled" in relation to the Transaction means that the Share Termination Alternative is applicable to the Transaction.

(d) *Disposition of Hedge Shares*. Counterparty hereby agrees that if, in the reasonable judgment of Dealer, based on the advice of legal counsel, the Shares acquired by Dealer for the purpose of hedging its obligations pursuant to the Transaction (the "**Hedge Shares**") cannot be sold in the U.S. public market by Dealer without registration under the Securities Act, Counterparty shall, at its sole election: (i) to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement for a registered offering for companies of a similar size in a similar industry, (B) provide accountant's "comfort" letters in customary form for registered offerings of equity securities for companies of a similar size in a similar industry, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty in customary form for registered offerings of equity securities for companies of a similar size in a similar industry, (D) provide other customary opinions, certificates and closing documents customary in form for registered offerings of equity securities for companies of a similar size in a similar industry and (E) afford Dealer a reasonable opportunity to conduct a "due diligence" investigation with respect to Counterparty customary in scope for underwritten offerings of equity securities for companies of a similar size in a similar industry; *provided, however*, that, if Counterparty elects clause (i) above but Dealer, in its sole discretion, is not satisfied with access to due diligence materials, then the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this Section 8(d) shall apply at the election of Counterparty; (ii) to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of companies of a similar size in a similar industry, in form and substance satisfactory to Dealer using reasonable best efforts to include customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Hedge Shares from Dealer), opinions and certificates and such other documentation as is customary for private placements agreements of equity securities of companies of a similar size in a similar industry, as is acceptable to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary to compensate Dealer for any customary liquidity discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); *provided* that no "comfort letter" or accountants' consent shall be required to be delivered in connection with any private placements; or (iii) purchase the Hedge Shares from Dealer at the then-prevailing market price at one or more times on such Exchange Business Days, and in the amounts, requested by Dealer.

(e) *Repurchase Notices*. Counterparty shall, at least one Scheduled Valid Day prior to any day on which Counterparty intends to effect any repurchase of Shares, give Dealer written notice of such repurchase (a "**Repurchase Notice**") on such day if, following such repurchase, the Notice Percentage would reasonably be expected to be (i) greater than [___][5]% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof). The "**Notice Percentage**" as of any day is the fraction, expressed as a percentage, the numerator of which is the aggregate Number of Shares, *plus* the aggregate number of Shares underlying any other call options sold by Dealer to Counterparty and the denominator of which is the number of Shares outstanding on such day. In the event that Counterparty fails to provide Dealer with a Repurchase Notice on the day and in the manner specified in this Section 8(e) then Counterparty agrees to indemnify and hold harmless Dealer, its affiliates and their respective directors, officers, employees, agents and controlling persons (Dealer and each such person being an "**Indemnified Party**") from and against any and all losses (including losses relating to the Dealer's hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 "insider", including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject under applicable securities laws, including without limitation, Section 16 of the Exchange Act or under any U.S. state or federal law, regulation or regulatory order, in each case relating to or arising out of such failure. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for all reasonable out-of-pocket expenses (including reasonable counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Party as a result of Counterparty's failure to provide Dealer with a Repurchase Notice pursuant to this paragraph, such Indemnified Party shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Party, shall retain counsel reasonably satisfactory to the Indemnified Party to represent the Indemnified Party and any others Counterparty may designate in such proceeding and Counterparty shall pay the commercially reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Party from and against any commercially reasonable loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Party, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Party. This indemnity shall survive the completion of the Transaction contemplated by this Confirmation and any assignment and delegation of the Transaction made pursuant to this Confirmation or the Agreement shall inure to the benefit of any permitted assignee of Dealer. Counterparty will not be liable under this indemnity provision to the extent any loss, claim, damage, liability or expense is found in a final judgment by a court to have resulted from Dealer's bad faith, gross negligence, willful misconduct or fraud.

[5] To be 0.5% higher than (i) the number of Shares underlying the call option transaction with the Issuer of the Dealer with the highest percentage allocation of the capped call, *divided by* (ii) total Shares outstanding.

(f) *Transfer and Assignment*.

(i) Either party may transfer or assign any of its rights or obligations under the Transaction with the prior written consent of the non-transferring party, such that the consent not to be unreasonably withheld or delayed; *provided* that Dealer may transfer or assign its rights and obligations hereunder, in whole or in part, and without Counterparty's consent, to any affiliate of Dealer that has a long-term issuer rating that is equal to or better than Dealer's or Dealer's ultimate parent's credit rating at the time of such transfer or assignment or whose obligations would be guaranteed by Dealer or Dealer's ultimate parent, acting as a Credit Support Provider pursuant to a reasonable and customary Credit Support Document, *provided*, *however*, that, (i) Dealer shall notify Counterparty in writing prior to any proposed transfer or assignment to an affiliate, (ii) (A) no Event of Default, Potential Event of Default or Termination Event with respect to which Dealer or such affiliate is the Defaulting Party or an Affected Party, as the case may be, exists or would result from such assignment or transfer, (B) no event giving rise to a right or responsibility to terminate or cancel, make an adjustment to the terms of or demand a payment under the Transaction (or any portion thereof) would result from such assignment or transfer, and (C) Counterparty shall not as a result of such assignment or transfer (1) be required to pay or deliver to Dealer or such affiliate an additional amount in respect of an Indemnifiable Tax greater than the amount Counterparty would have been required to pay or deliver to Dealer in the absence of such assignment or transfer (except to the extent such greater amount results from a change in law after the date of such transfer or assignment), (2) receive a payment or delivery from which an amount is required to be deducted or withheld for or on account of a Tax as to which no additional amount is required to be paid or delivered except to the extent such additional amounts were not payable or deliverable by Dealer or such affiliate immediately before such assignment or transfer, or (3) become subject to the laws or jurisdiction of any country other than the United States of America, and (iii) Dealer shall cause the transferee or assignee to make the Payee Tax Representations and provide Counterparty with a complete and accurate U.S. Internal Revenue Service Form W-9 or W-8 (as applicable) prior to becoming a party to the Transaction.

(ii) At any time at which (1) the Equity Percentage exceeds [ ]% or (2) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any applicable "business combinations statute" or other federal, state or local law, rule, regulation or regulatory order or organizational documents or contracts of Counterparty applicable to ownership of Shares (collectively, the "**Applicable Restrictions**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting, registration, filing or notification obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person under Applicable Restrictions and with respect to which such requirements have not been met or the relevant approval has not been received *minus* (y) 1% of the number of Shares outstanding on the date of determination (any such condition described in clause (1), (2) or (3), an "**Excess Ownership Position**"), if Dealer, in its sole discretion, is unable to effect a transfer or assignment to a third party in accordance with the requirements set forth above after its efforts on pricing and terms and within a time period acceptable to Dealer such that an Excess Ownership Position no longer exists, Dealer may designate any Scheduled Valid Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that an Excess Ownership Position no longer exists following such partial termination. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(c) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Counterparty were the sole Affected Party with respect to such partial termination, (iii) such portion of the Transaction were the only Terminated Transaction and (iv) Dealer were the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement and to determine the amount payable pursuant to Section 6(e) of the Agreement. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares Dealer and any of its affiliates subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer (collectively, "**Dealer Group**") "beneficially own" (within the meaning of Section 13 of the Exchange Act) without duplication on such day and (B) the denominator of which is the number of Shares outstanding on such day.

In the case of a transfer or assignment by Counterparty of its rights and obligations hereunder and under the Agreement, in whole or in part (any such Options so transferred or assigned, the "**Transfer Options**"), to any party, withholding of such consent by Dealer shall not be considered unreasonable if such transfer or assignment does not meet the reasonable conditions that Dealer may impose including, but not limited, to the following conditions:

(A) with respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 8(e) or any obligations under Section 2 (regarding Extraordinary Events) or 8(d) of this Confirmation;

(B) any Transfer Options shall only be transferred or assigned to a third party that is a U.S. person (as defined in the Code);

(C) such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, undertakings with respect to compliance with applicable securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable securities laws) and execution of any documentation and delivery of customary legal opinions with respect to securities laws and other matters by such third party and Counterparty as are reasonably requested and reasonably satisfactory to Dealer;

(D) Dealer will not, as a result of such transfer or assignment, be required to pay or deliver to the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay or deliver to Counterparty in the absence of such transfer or assignment;

(E) Dealer will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date an amount (after taking into account any withholding tax and any amounts payable under Section 2(d)(i)(4) of the Agreement) that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer or assignment;

(F) an Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;

(G) without limiting the generality of clause (B), Counterparty shall have caused the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (B), (D), (E), and (F) will not occur upon or after such transfer or assignment; and

(H) Counterparty shall be responsible for all reasonable costs and expenses, including reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.

(g) *Staggered Settlement*. If Dealer determines that the number of Shares required to be delivered to Counterparty hereunder on any Settlement Date would result in an Excess Ownership Position, then Dealer may, by notice to Counterparty prior to such Settlement Date (a "**Nominal Settlement Date**"), elect to deliver any Shares due to be delivered on two or more dates (each, a "**Staggered Settlement Date**") or at two or more times on the Nominal Settlement Date as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to such Nominal Settlement Date) or delivery times and how it will allocate the Shares it is required to deliver hereunder on the Settlement Date among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; *provided* that in no event shall any Staggered Settlement Date be a date later than the Final Termination Date.

(h) *Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(i) *No Netting and Set-off*. The provisions of Section 2(c) of the Agreement shall not apply to the Transaction. Each party waives any and all rights it may have to set-off delivery or payment obligations it owes to the other party under the Transaction against any delivery or payment obligations owed to it by the other party, whether arising under the Agreement, under any other agreement between parties hereto, by operation of law or otherwise.

(j) *Equity Rights*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common shareholders in the event of Counterparty's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty's bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that the obligations of Counterparty under this Confirmation are not secured by any collateral that would otherwise secure the obligations of Counterparty herein under or pursuant to any other agreement.

(k) *Early Unwind*. In the event the sale of any Notes (as defined in any of the subscription agreements (the "**Subscription Agreements**"), each dated [•], 2026 and each between Counterparty and the Investor party thereto (the "**Investor**")) is not consummated with an Investor for any reason by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**") on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

(l) *Wall Street Transparency and Accountability Act*. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, an Excess Ownership Position, or Illegality (as defined in the Agreement)).

(m) *Amendments to Equity Definitions and the Agreement*. The following amendments shall be made to the Equity Definitions:

(i) solely for purposes of applying the Equity Definitions and for purposes of this Confirmation, any reference in the Equity Definitions to a Strike Price shall be deemed to be a reference to either of the Strike Price or the Cap Price, or both, as appropriate;

(ii) Section 11.2(a) of the Equity Definitions is hereby amended by (1) deleting the words "in the determination of the Calculation Agent, a diluting or concentrative effect on the theoretical value of the relevant Shares" and replacing these words with "a material economic effect on the theoretical value of the Shares or options on such Shares"; and (2) adding at the end thereof "; *provided* that such event is not based on (i) an observable market, other than the market for Counterparty's own stock or (ii) an observable index, other than an index calculated and measured solely by reference to Counterparty's own operations";

(iii) for the purpose of any adjustment under Section 11.2(c) of the Equity Definitions, the first sentence of Section 11.2(c) of the Equity Definitions, prior to clause (A) thereof, is hereby amended to read as follows: "If "Calculation Agent Adjustment" is specified as the Method of Adjustment in the related Confirmation of a Share Option Transaction, then following the announcement or occurrence of any Potential Adjustment Event, the Calculation Agent will determine whether such Potential Adjustment Event has a material economic effect on the theoretical value of the relevant Shares or options on the Shares (*provided* that such event is not based on (x) an observable market, other than the market for Counterparty's own stock or (y) an observable index, other than an index calculated and measured solely by reference to Counterparty's own operations) and, if so, will (i) make appropriate adjustment(s), if any, to any one or more of:", and the portion of such sentence immediately preceding clause (ii) thereof is hereby amended by deleting the words "diluting or concentrative" and the words "(*provided* that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)" and replacing it with the phrase "(and, for the avoidance of doubt, adjustments may be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares).";

(iv) Section 11.2(e)(vii) of the Equity Definitions is hereby amended and restated as follows: "any other corporate event involving the Issuer that has a material economic effect on the theoretical value of the Shares or options on the Shares; *provided* that such corporate event involving the Issuer is not based on (a) an observable market, other than the market for Counterparty's own stock or (b) an observable index, other than an index calculated and measured solely by reference to Counterparty's own operations."; and

(v) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting "(1)" immediately following the word "means" in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: "or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer".

(n) *Governing Law*. **THE AGREEMENT, THIS CONFIRMATION AND ALL MATTERS ARISING IN CONNECTION WITH THE AGREEMENT AND THIS CONFIRMATION SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE, OTHER THAN TITLE 14 OF THE NEW YORK GENERAL OBLIGATIONS LAW). THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THE AGREEMENT, THIS CONFIRMATION OR ANY TRANSACTIONS CONTEMPLATED HEREBY.**

(o) *Delivery or Receipt of Cash*. For the avoidance of doubt, other than payment of the Premium by Counterparty, nothing in this Confirmation shall be interpreted as requiring Counterparty to cash settle the Transaction, except in circumstances where cash settlement is within Counterparty's control (including, without limitation, where Counterparty elects to deliver or receive cash) or in those circumstances in which holders of Shares would also receive cash.

(p) *Waiver of Jury Trial*. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE AGREEMENT, THIS CONFIRMATION OR ANY TRANSACTIONS CONTEMPLATED HEREBY.

(q) *Amendment*. This Confirmation and the Agreement may not be modified, amended or supplemented, except in a written instrument signed by Counterparty and Dealer.

(r) *Counterparts*. This Confirmation may be executed in several counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument, and any party hereto may execute this Confirmation by signing and delivering one or more counterparts. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., AdobeSign (any such signature, an "**Electronic Signature**")) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. The words "execution," "signed," "signature" and words of like import in this Confirmation or in any other certificate, agreement or document related to this Confirmation shall include any Electronic Signature, except to the extent electronic notices are expressly prohibited under this Confirmation or the Agreement.

(s) *Tax Matters*. For the purpose of Sections 4(a)(i) and (ii) of the Agreement, Counterparty agrees to deliver to Dealer one duly executed and completed United States Internal Revenue Service Form W-9 (or successor thereto) and Dealer agrees to deliver to Counterparty, as applicable, a U.S. Internal Revenue Service Form W-8 or Form W-9 (or successor thereto). Such forms or documents shall be delivered upon (i) execution of this Confirmation, (ii) Counterparty or Dealer, as applicable, learning that any such tax form previously provided by it has become obsolete or incorrect, and (iii) reasonable request of the other party.

(t) *Payee Tax Representation*.

(i) For the purpose of Section 3(f) of the Agreement, Counterparty makes the representations below:

Counterparty is a corporation created or organized in the United States or under the laws of the United States and its U.S. taxpayer identification number is [ ]. Counterparty is a "U.S. person" (as that term is used in United States Treasury Regulations section 1.1441-4(a)(3)(ii)) for U.S. federal income tax purposes. It is "exempt" within the meaning of United States Treasury Regulation sections 1.6041-3(p) and 1.6049-4(c) from information reporting on IRS Form 1099 and backup withholding.

(ii) For the purpose of Section 3(f) of the Agreement, Dealer makes the representations below:

[Dealer is a national banking association organized and existing under the laws of the United States of America, is an exempt recipient under United States Treasury Regulations section 1.6049-4(c)(1)(ii)(M), and its federal taxpayer identification number is [ ].][6] [Dealer is a "U.S. person" (as that term is used in United States Treasury Regulations section 1.1441-4(a)(3)(ii)) for U.S. federal income tax purposes.][7] [Dealer is a "non-U.S. branch of a foreign person" as that term is used in Section 1.1441-4(a)(3)(ii) of the United States Treasury Regulations and a "foreign person" as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations.

[6] Dealer to confirm.

[7] Dealer to confirm.

Dealer is fully eligible for the "Business Profits" or "Industrial and Commercial Profits" provision, as the case may be, the "Interest" provision or the "Other Income" provision (if any) of the Specified Treaty with respect to any payment described in such provisions and received or to be received by it in connection with this Agreement, and no such payment is attributable to a trade or business carried on by it through a permanent establishment in the United States.

"Specified Treaty" means the Income Tax Treaty between the United States of America and the country of organization of Dealer.][8]

(u) *Withholding Tax imposed on payments to non-US counterparties under the United States Foreign Account Tax Compliance Act*. "Indemnifiable Tax", as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "FATCA Withholding Tax"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(v) *HIRE Act*. "Indemnifiable Tax", as defined in Section 14 of the Agreement, shall not include any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the Code or any regulations issued thereunder. For the avoidance of doubt, any such tax imposed under Section 871(m) of the Code is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(w) *Agreements and Acknowledgements Regarding Hedging*. Counterparty understands, acknowledges and agrees that: (A) at any time on or prior to the final Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of the Issuer shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.

[8] Dealer to provide if it is not a US person.

(x) *[U.S. Resolution Stay Protocol.* The parties agree that (i) to the extent that prior to the date hereof both parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the "**Protocol**"), the terms of the Protocol are incorporated into and form a part of this Confirmation, and for such purposes this Confirmation shall be deemed a Protocol Covered Agreement and each party shall be deemed to have the same status as "Regulated Entity" and/or "Adhering Party" as applicable to it under the Protocol; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the "**Bilateral Agreement**"), the terms of the Bilateral Agreement are incorporated into and form a part of this Confirmation and each party shall be deemed to have the status of "Covered Entity" or "Counterparty Entity" (or other similar term) as applicable to it under the Bilateral Agreement; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the "**Bilateral Terms**") of the form of bilateral template entitled "Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)" published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and, a copy of which is available upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of this Confirmation, and for such purposes this Confirmation shall be deemed a "Covered Agreement," Dealer shall be deemed a "Covered Entity" and Counterparty shall be deemed a "Counterparty Entity." In the event that, after the date of this Confirmation, both parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this paragraph. In the event of any inconsistencies between this Confirmation and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the "**QFC Stay Terms**"), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to "this Confirmation" include any related credit enhancements entered into between the parties or provided by one to the other. In addition, the parties agree that the terms of this paragraph shall be incorporated into any related covered affiliate credit enhancements, with all references to Dealer replaced by references to the covered affiliate support provider. "**QFC Stay Rules**" mean the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.]

(y) *CARES Act*. Counterparty represents and warrants that it and any of its subsidiaries has not applied, and shall not, until after the first date on which no portion of the Transaction remains outstanding following any final exercise and settlement, cancellation or early termination of the Transaction, apply, for a loan, loan guarantee, direct loan (as that term is defined in the Coronavirus Aid, Relief and Economic Security Act (the "**CARES Act**")) or other investment, or to receive any financial assistance or relief under any program or facility (collectively "**Financial Assistance**") that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) (i) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) as a condition of such Financial Assistance, that Counterparty comply with any requirement not to, or otherwise agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that Counterparty has not, as of the date specified in the condition, made a capital distribution or will not make a capital distribution, or (ii) where the terms of the Transaction would cause Counterparty to fail to satisfy any condition for application for or receipt or retention of the Financial Assistance (collectively "**Restricted Financial Assistance**"); *provided* that Counterparty or any of its subsidiaries may apply for Restricted Financial Assistance if Counterparty either (a) determines based on the advice of outside counsel of national standing that the terms of the Transaction would not cause Counterparty or any of its subsidiaries to fail to satisfy any condition for application for or receipt or retention of such Financial Assistance based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with the attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration's "Paycheck Protection Program", that (a) is established under applicable law, including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of the Transaction (either by specific reference to the Transaction or by general reference to transactions with the attributes of the Transaction in all relevant respects).

(z) [*Matters Relating to Agent*.] [Insert Dealer agency or communications with employees provisions, if applicable]

(aa) [Insert additional Dealer boilerplate, if applicable]

[*Signatures to follow*]

Please confirm that the foregoing correctly sets forth the terms of our agreement by sending to us a letter or telex substantially similar to this facsimile, which letter or telex sets forth the material terms of the Transaction to which this Confirmation relates and indicates your agreement to those terms.

Yours faithfully,

[DEALER]

By:

Name:
Title:

[*Signature Page to Capped Call Confirmation*]

Agreed and Accepted By:

PROFICIENT AUTO LOGISTICS, INC.

By _____
Name:
Title:

[*Signature Page to Capped Call Confirmation*]

Annex A

For each Component of the Transaction, the Number of Options and Expiration Date is set forth below.

Component Number	Number of Options	Expiration Date
1	[_____]	[•]/[•]/20[•]
2	[_____]	[•]/[•]/20[•]
3	[_____]	[•]/[•]/20[•]
4	[_____]	[•]/[•]/20[•]
5	[_____]	[•]/[•]/20[•]
6	[_____]	[•]/[•]/20[•]
7	[_____]	[•]/[•]/20[•]
8	[_____]	[•]/[•]/20[•]
9	[_____]	[•]/[•]/20[•]
10	[_____]	[•]/[•]/20[•]
11	[_____]	[•]/[•]/20[•]
12	[_____]	[•]/[•]/20[•]
13	[_____]	[•]/[•]/20[•]
14	[_____]	[•]/[•]/20[•]
15	[_____]	[•]/[•]/20[•]
16	[_____]	[•]/[•]/20[•]
17	[_____]	[•]/[•]/20[•]
18	[_____]	[•]/[•]/20[•]
19	[_____]	[•]/[•]/20[•]
20	[_____]	[•]/[•]/20[•]
21	[_____]	[•]/[•]/20[•]
22	[_____]	[•]/[•]/20[•]
23	[_____]	[•]/[•]/20[•]
24	[_____]	[•]/[•]/20[•]
25	[_____]	[•]/[•]/20[•]
26	[_____]	[•]/[•]/20[•]
27	[_____]	[•]/[•]/20[•]
28	[_____]	[•]/[•]/20[•]
29	[_____]	[•]/[•]/20[•]
30	[_____]	[•]/[•]/20[•]
31	[_____]	[•]/[•]/20[•]
32	[_____]	[•]/[•]/20[•]
33	[_____]	[•]/[•]/20[•]
34	[_____]	[•]/[•]/20[•]
35	[_____]	[•]/[•]/20[•]
36	[_____]	[•]/[•]/20[•]
37	[_____]	[•]/[•]/20[•]
38	[_____]	[•]/[•]/20[•]
39	[_____]	[•]/[•]/20[•]
40	[_____]	[•]/[•]/20[•]
41	[_____]	[•]/[•]/20[•]
42	[_____]	[•]/[•]/20[•]
43	[_____]	[•]/[•]/20[•]
44	[_____]	[•]/[•]/20[•]
45	[_____]	[•]/[•]/20[•]
46	[_____]	[•]/[•]/20[•]
47	[_____]	[•]/[•]/20[•]
48	[_____]	[•]/[•]/20[•]
49	[_____]	[•]/[•]/20[•]
50	[_____]	[•]/[•]/20[•]

51	[_____]	[•]/[•]/20[•]
52	[_____]	[•]/[•]/20[•]
53	[_____]	[•]/[•]/20[•]
54	[_____]	[•]/[•]/20[•]
55	[_____]	[•]/[•]/20[•]
56	[_____]	[•]/[•]/20[•]
57	[_____]	[•]/[•]/20[•]
58	[_____]	[•]/[•]/20[•]
59	[_____]	[•]/[•]/20[•]
60	[_____]	[•]/[•]/20[•]

Exhibit 31.1

CHIEF EXECUTIVE OFFICER CERTIFICATION

I, Richard O’Dell, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ended September 30, 2026, of Proficient Auto Logistics, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: November 16, 2026

/s/ Richard O’Dell
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CHIEF FINANCIAL OFFICER CERTIFICATION

I, Brad Wright, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ended September 30, 2026, of Proficient Auto Logistics, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: November 16, 2026

/s/ Brad Wright
Chief Financial Officer and Secretary
(Principal Financial Officer)

Exhibit 32.1

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

In connection with the Quarterly Report of Proficient Auto Logistics, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2026 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Richard O'Dell, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge and belief:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Richard O'Dell
Chief Executive Officer
(Principal Executive Officer)

Dated: November 16, 2026

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

Exhibit 32.2

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

In connection with the Quarterly Report of Proficient Auto Logistics, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2026 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Brad Wright, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge and belief:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Brad Wright
Chief Financial Officer and Secretary
(Principal Financial Officer)

Dated: November 16, 2026

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.