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SECURITIES & EXCHANGE COMMISSION EDGAR FILING

Transportation & Logistics Systems, Inc.

Form: 8-K

Date Filed: 2020-12-29

Corporate Issuer CIK: 1463208

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): December 28, 2020

Transportation and Logistics Systems, Inc.
(Exact name of registrant as specified in its charter)

Nevada	**001-34970**	**26-3106763**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

5500 Military Trail, Suite 22-357
Jupiter, Florida 33458
(Address of Principal Executive Offices)

(833) 764-1443
(Issuer's telephone number)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation to the registrant under any of the following provisions:

[ ] Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

[ ] Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

[ ] Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

[ ] Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act: None.

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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. [ ]

Forward Looking Statements

Statements in this report regarding Transportation and Logistics Systems, Inc. (the "**Company**") and/or its subsidiaries Prime EFS LLC ("**Prime EFS**") and Shypdirect LLC ("**Shypdirect**") that are not historical facts are forward-looking statements and are subject to risks and uncertainties that could cause actual future events or results to differ materially from such statements. Any such forward-looking statements, including, but not limited to, financial guidance, are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Forward-looking statements include all statements that do not directly or exclusively relate to historical facts. In some cases, you can identify forward-looking statements by terms such as "may," "will," "should," "could," "would," "expects," "plans," "anticipates," "intend," "goal," "seek," "strategy," "future," "likely," "believes," "estimates," "projects," "forecasts," "predicts," "potential," or the negative of those terms, and similar expressions and comparable terminology. These include, but are not limited to, statements relating to future events or our future financial and operating results, plans, objectives, expectations and intentions. Although we believe that the expectations reflected in these forward-looking statements are reasonable, these expectations may not be achieved. Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they represent our intentions, plans, expectations, assumptions and beliefs about future events and are subject to known and unknown risks, uncertainties and other factors outside of our control that could cause our actual results, performance or achievement to differ materially from those expressed or implied by these forward-looking statements. In addition to the risks described above, these risks and uncertainties include: our ability to successfully execute our business strategies, including integration of acquisitions and the future acquisition of other businesses to grow our Company; customers' cancellation on short notice of master service agreements from which we derive a significant portion of our revenue or our failure to renew such master service agreements on favorable terms or at all; our ability to attract and retain key personnel and skilled labor to meet the requirements of our labor-intensive business

or labor difficulties which could have an effect on our ability to bid for and successfully complete contracts; the ultimate geographic spread, duration and severity of the coronavirus outbreak and the effectiveness of actions taken, or actions that may be taken, by governmental authorities to contain the outbreak or ameliorate its effects; our failure to compete effectively in our highly competitive industry, which could reduce the number of new contracts awarded to us or adversely affect our market share and harm our financial performance; our ability to adopt and master new technologies and adjust certain fixed costs and expenses to adapt to our industry's and customers' evolving demands; our history of losses, deficiency in working capital and a stockholders' deficit and our inability to achieve sustained profitability; material weaknesses in our internal control over financial reporting and our ability to maintain effective controls over financial reporting in the future; our substantial indebtedness, which could adversely affect our business, financial condition and results of operations and our ability to meet our payment obligations; the impact of new or changed laws, regulations or other industry standards that could adversely affect our ability to conduct our business; and changes in general market, economic, social and political conditions in the United States and global economies or financial markets, including those resulting from natural or man-made disasters.

These forward-looking statements represent our estimates and assumptions only as of the date of this report and, except as required by law, we undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise after the date of this report. Given these uncertainties, you should not place undue reliance on these forward-looking statements and should consider various factors, including the risks described, among other places, in our most recent Annual Report on Form 10-K and in our Quarterly Reports on Form 10-Q, as well as any amendments thereto, filed with the Securities and Exchange Commission.

Section 1 - Registrant's Business and Operations

Item 1.01 Entry into a Material Definitive Agreement.

Transportation and Logistics Systems, Inc. (OTC:TLSS), ("TLSS" or the "Company"), an eCommerce fulfillment service provider, announced that, on December 28, 2020, it entered into an stock purchase agreement ("Agreement"), and subject to the terms and conditions set forth in the Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company issued and sold units (the "Units"), each consisting of one share of Series E Convertible Preferred Stock, $0.001 par value (the "Series E Shares") and a warrant to purchase 1,334 shares of Common Stock, subject to adjustment, at an initial exercise price of $0.01 per share, at a purchase price of $11.67 per Unit. The Agreement provides for the sale of 40,266 Units at an original issue discount of 15%, raising $470,000 at its initial closing, which occurred on December 28, 2020. The Company shall use the proceeds for working capital purposes.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
10.1	Stock Purchase Agreement, dated December 28, 2020, between TLSS and each purchaser identified on the signature pages hereto

+ Some Disclosure Schedules and other related Schedules and Exhibits (forms of closing documents) are omitted.

SIGNATURES

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

Dated: December 29, 2020

TRANSPORTATION AND LOGISTICS SYSTEMS, INC.

By: */s/ John Mercadante*
Name: John Mercadante
Title: Chief Executive Officer

Exhibit 10.1

EXECUTION COPY

SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this "**Agreement**") is dated as of December 28, 2020, between Transportation and Logistics Systems, Inc., a Nevada corporation (the "**Company**"), and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a " **Purchaser**" and collectively the "**Purchasers**").

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an exemption from the registration requirements of Section 5 of the Securities Act contained in Section 4(a)(2) thereof and/or Rule 506(b) thereunder, the Company desires to issue and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and each Purchaser agree as follows:

ARTICLE I.
DEFINITIONS

Section 1.1 Definitions. For the purposes of this Agreement, the following words and phrases have the meanings set forth in this Section 1.1:

"**Acquiring Person**" shall have the meaning ascribed to such term in Section 4.5.

"**Action**" shall have the meaning ascribed to such term in Section 3.1(j).

"**Affiliate**" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

"**Agreement**" shall have the meaning ascribed to such term in the preamble.

"**BHCA**" shall have the meaning ascribed to such term in Section 3.1(nn).

"**Board of Directors**" means the board of directors of the Company.

"**Charter**" means the Articles or Certificate of Incorporation of the Company.

"**Closing**" shall have the meaning ascribed to such term in Section 2.2.

"**Closing Date**" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchasers' obligations to pay the Subscription Amount and (ii) the Company's obligations to deliver the Securities to be issued and sold, in each case, have been satisfied or waived, but in no event later than the second Trading Day following the date hereof.

"**Common Stock**" means the common stock of the Company, par value $0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"**Common Stock Equivalents**" means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire Common Stock at any time, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"**Company**" shall have the meaning ascribed to such term in the preamble.

"**Consent**" shall have the meaning ascribed to such term in Section 4.6.

"**Conversion Shares**" means the shares of Common Stock issuable upon conversion of the Series E Shares.

"**Disqualification Event**" shall have the meaning ascribed to such term in Section 3.1(jj).

"**DTC**" shall have the meaning ascribed to such term in Section 3.1(w).

"**Effective Date**" shall have the meaning ascribed to such term in Section 4.1(c).

"**Environmental Laws**" shall have the meaning ascribed to such term in Section 3.1(m).

"**Escrow Agent**" means Nason Yeager Gerson Harris & Fumero, LLP.

"**Escrow Agreement**" means the escrow agreement, in the form attached as Exhibit G.

"**Evaluation Date**" shall have the meaning ascribed to such term in Section 3.1(s).

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Exempt Issuance**" means the issuance of (a) shares of Common Stock or options to employees, officers or directors of the Company, in an aggregate amount not to exceed 10% of shares of Common Stock outstanding pursuant to any stock or option plan duly adopted for such purpose by the Board of Directors, (b) securities issuable upon the exercise or exchange of or conversion of any Securities issued hereunder and/or other securities issuable pursuant to existing agreements, exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than (1) in connection with stock dividends, stock splits or combinations or (2) automatic adjustments to such terms pursuant to anti-dilution, default or similar provisions of such securities, including for the avoidance of doubt the adjustments resulting from a Triggering Event (as defined in the Series E COD)) or to extend the term of such securities, (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the directors of the Company, provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities, or (d) securities issued for bonafide services provided to the Company not for the purpose of raising capital or to an entity whose primary business is investing in securities.

"**FCPA**" means the Foreign Corrupt Practices Act of 1977, as amended.

"**Federal Reserve**" shall have the meaning ascribed to such term in Section 3.1(nn).

"**GAAP**" shall have the meaning ascribed to such term in Section 3.1(h).

"**Hazardous Materials**" shall have the meaning ascribed to such term in Section 3.1(m).

"**Indebtedness**" shall have the meaning ascribed to such term in Section 3.1(aa).

"**Initial Closing**" shall have the meaning ascribed to such term in Section 2.2.

"**Intellectual Property**" means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all U.S. and foreign patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, brand names, certification marks, trade dress, logos, trade names, domain names, assumed names and corporate names, together with all colorable imitations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all trade secrets under applicable state laws and the common law and know-how (including formulas, techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (e) all computer software (including source code, object code, diagrams, data and related documentation), and (f) all copies and tangible embodiments of the foregoing (in whatever form or medium).

"**Issuer Covered Person**" and "**Issuer Covered Persons**" shall have the meanings ascribed to such terms in Section 3.1(jj).

"**Laws**" means any U.S. federal, state, local, foreign or other laws, rules regulations, guidelines, orders, injunctions, building and other codes, ordinances, permits, licenses, authorizations, judgements, decrees of federal, state, local, foreign or other authorities, and all orders, writs, decrees and consents of any governmental or political subdivision or agency thereof, or any court of similar tribunal established by any such governmental or political subdivision or agency thereof.

"**Lead Investor**" means Cavalry Fund I, L.P.

"**Legend Removal Date**" shall have the meaning ascribed to such term in Section 4.1(c).

"**Liens**" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"**Material Adverse Effect**" shall have the meaning assigned to such term in Section 3.1(b).

"**Material Permits**" shall have the meaning ascribed to such term in Section 3.1(n).

"**Money Laundering Laws**" shall have the meaning ascribed to such term in Section 3.1(oo).

"**OFAC**" shall have the meaning ascribed to such term in Section 3.1(ll).

"**Person**" means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

"**Proceeding**" means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"**Public Information Failure**" shall have the meaning ascribed to such term in Section 4.2(b).

"**Purchaser**" and "**Purchasers**" shall have the meanings ascribed thereto in the preamble.

"**Purchaser Party**" shall have the meaning ascribed to such term in Section 4.8.

"**Registration Rights Agreement**" means the registration rights agreement, in the form of Exhibit B.

"**Regulation FD**" means Regulation FD promulgated by the SEC pursuant to the Exchange Act, as such Regulation may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same purpose and effect as such Regulation.

"**Required Approvals**" shall have the meaning ascribed to such term in Section 3.1(e).

"**Rule 144**" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the SEC (or similar United States law) having substantially the same purpose and effect as such Rule.

"**SEC**" means the United States Securities and Exchange Commission.

"**SEC Reports**" shall have the meaning ascribed to such term in Section 3.1(h).

"**Securities**" shall have the meaning ascribed to such term in Section 2.1(b).

"**Securities Act**" means the Securities Act of 1933, and the rules and regulations promulgated thereunder.

"**Series E COD**" shall have the meaning ascribed to such term in Section 2.1(a).

"**Series E Shares**" shall have the meaning ascribed to such term in Section 2.1(b).

"**Short Sales**" means all "short sales" as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include the location and/or reservation of borrowable shares of Common Stock).

"**Subscription Amount**" means, as to each Purchaser, the aggregate amount to be paid for the Series E Shares and Warrants purchased hereunder as specified below such Purchaser's name on the signature page of this Agreement and next to the heading.

"**Subsidiary**" means with respect to any entity at any date, any direct or indirect corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity of which (A) more than 50% of (i) the outstanding capital stock having (in the absence of contingencies) ordinary voting power to elect a majority of the board of directors or other managing body of such entity, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such entity, or (B) is under the actual control of the Company.

"**Trading Day**" means a day on which the principal Trading Market is open for trading.

"**Trading Market**" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the NYSE American, the OTCQB, the OTCQX, or the OTC Pink Marketplace (or any successors to any of the foregoing).

"**Transaction Documents**" means this Agreement, the Series E COD, the Warrants, Escrow Agreement, the Registration Rights Agreement, all schedules and exhibits thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

"**Transfer Agent**" means Equiniti Trust Company, 1100 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120, and any successor transfer agent of the Company.

"**Units**" shall have the meaning ascribed to such term in Section 2.1(b).

"**VWAP**" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)) (or a similar organization or agency succeeding to its functions of reporting prices), (b) if no volume weighted average price of the Common Stock can be ascertained from the Trading Market, the average closing price of the Common Stock during the ten (10) Trading Days preceding such date, or (c) in all other cases, the fair market value of a share of Common Stock as determined by the Board of Directors of the Company.

"**Warrants**" means, collectively, the Common Stock purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.3(a) hereof, which Warrants shall be exercisable immediately and have a term of exercise equal to five years from such initial exercise date, in the form of Exhibit C attached hereto.

"**Warrant Exercise Price**" means $0.01 per share.

"**Warrant Shares**" means the shares of Common Stock issuable upon exercise of the Warrants at the Warrant Exercise Price.

ARTICLE II
PURCHASE AND SALE

Section 2.1 Sale and Issuance of Units.

(a) The Company shall have adopted and filed with the Secretary of State of the State of Nevada on or before the Initial Closing (as defined below) the Amended and Restated Certificate of Designation, Preferences, Rights and Limitations of Series E Convertible Preferred Stock in the form of Exhibit A attached to this Agreement (the "**Series E COD**").

(b) Subject to the terms and conditions of this Agreement, each Purchaser agrees to purchase at the applicable Closing (as defined below) and the Company agrees to sell and issue to each Purchaser at the applicable Closing that number of units (the "**Units**"), each consisting of one share of Series E Convertible Preferred Stock, $0.001 par value (the "**Series E Shares**") and a warrant to purchase 1,334 shares of Common Stock, subject to adjustment, at an initial exercise price of $0.01 per share, set forth on such Purchaser's signature page hereto, at a purchase price of $11.67 per Unit. The Units, Series E Shares, the Conversion Shares, the Warrants and the Warrants issued or issuable to the Purchasers pursuant to this Agreement shall be referred to in this Agreement as the "**Securities**."

Section 2.2 Closing. The initial purchase and sale of the Securities shall take place remotely via the exchange of documents and signatures, 12;00 p.m., on December 28, 2020, or at such other time and place as the Company and the Purchasers mutually agree upon, orally or in writing (which time and place are designated as the "**Initial Closing**"). In the event there is more than one closing, the term " **Closing**" shall apply to each such closing unless otherwise specified.

Section 2.3 Deliveries.

(a) On or prior to the applicable Closing, the Company shall deliver or cause to be delivered to the Escrow Agent on behalf of each Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) an original Warrant, exercisable at the Warrant Exercise Price, registered in the name of such Purchaser;

(iii) the Registration Rights Agreement duly executed by the Company;

(iv) a reservation letter executed by the Company's Transfer Agent and the Company in the form attached as Exhibit D;

(v) the Escrow Agreement executed by the Company in the form attached as Exhibit G;

(vi) board resolutions approving the issuance of the Series E Shares and the Warrants, and the execution of the Transaction Documents on behalf of the Company; and

(vii) a legal opinion in the form reasonably acceptable to the Lead Investor, limited to the opinion that the Preferred Stock is exempt from registration requirements pursuant to Rule 144, promulgated by the SEC.

(b) On or prior to the applicable Closing, each Purchaser shall deliver or cause to be delivered to the Escrow Agent the following:

(i) this Agreement duly executed by such Purchaser;

(ii) the Registration Rights Agreement duly executed by the Purchaser;

(iii) a reservation letter executed by the Purchaser in the form attached hereto as Exhibit D;

(iv) the Escrow Agreement executed by the Purchaser; and

(v) such Purchaser's Subscription Amount by wire transfer to the Escrow Agent.

Section 2.4 Closing Conditions.

(a) The obligations of the Company hereunder in connection with each applicable Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) on the applicable Closing Date of the representations and warranties of each Purchaser contained herein (unless as of a specific date therein in which case they shall be accurate as of such date);

(ii) all obligations, covenants and agreements of each Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by each Purchaser of the items set forth in Section 2.3(b) of this Agreement.

(b) The respective obligations of the Purchasers hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.3(a) of this Agreement;

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof;

(v) from the date hereof to the Closing Date trading in the Common Stock shall not have been suspended by the SEC or the Company's

principal Trading Market, and, at any time prior to the Closing Date, trading in securities generally as reported by Bloomberg L.P. shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity of such magnitude in its effect on, or any material adverse change in, any financial market which, in each case, in the reasonable judgment of such Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of the Company. The Company hereby represents and warrants to each Purchaser that, except as set forth on the Disclosure Schedule to this Agreement, which exceptions shall be deemed to be part of the representations and warranties made hereunder, the following representations are true and complete as of the date of the Initial Closing, except as otherwise indicated. The Disclosure Schedule shall be arranged in sections corresponding to the numbered and lettered sections contained in this Section 3.1, and the disclosures in any section of the Disclosure Schedule shall qualify other sections in this Section 3.1 only to the extent it is readily apparent from a reading of the disclosure that such disclosure is applicable to such other sections.

(a) Subsidiaries. All of the direct and indirect Subsidiaries of the Company are set forth on Schedule 3.1(a). Except as set forth on Schedule 3.1(a), the Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. If the Company has no subsidiaries, all other references to the Subsidiaries or any of them in the Transaction Documents shall be disregarded.

(b) Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective Charter, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "**Material Adverse Effect**") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's shareholders in connection herewith or therewith other than in connection with the Required Approvals. Subject to obtaining the Required Approvals, this Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. Except as set forth in Schedule 3.1(d), the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) subject to the Required Approvals, conflict with or violate any provision of the Company's or any Subsidiary's Charter, bylaws or other organizational or charter documents, or (ii) constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. Except as set forth on Schedule 3.1(e), the Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.4 of this Agreement, (ii) application(s) to each applicable Trading Market for the listing of the Conversion Shares and Warrant Shares for trading thereon in the time and manner required thereby, and (iii) such filings as are required to be made under applicable state or federal securities laws (collectively, the "**Required Approvals**").

(f) Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Conversion Shares, when issued upon conversion of the Series E Shares, and the Warrant Shares, when issued in accordance with the terms of the Warrants, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company shall reserve from its duly authorized capital stock a number of shares of Common Stock issuable pursuant to the Series E Shares and the Warrants equal to the amount set forth in Section 4.9.

(g) Capitalization. The capitalization of the Company is as set forth on Schedule 3.1(g). The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than as set forth on Schedule 3.1(g) other than pursuant to the exercise of employee stock awards under the Company's equity incentive plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans, the issuance of shares of Common Stock or Common Stock Equivalents pursuant to agreements outstanding as of the date of the most recently filed periodic report under the Exchange Act and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. Except for the holders of shares of Series D Convertible Preferred Stock, no Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth on Schedule 3.1(g), there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchasers) and will not result in a right of any holder of Company securities to adjust the exercise, conversion, exchange or reset price under any of such securities. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no shareholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's shareholders.

(h) SEC Reports; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "**SEC Reports**"). As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the SEC with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("**GAAP**"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Other than as set forth on Schedule 3.1(i) since the date of the latest audited financial statements included within the SEC Reports, except as specifically disclosed in a subsequent SEC Report filed prior to the date hereof, (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice, and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the SEC, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its shareholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company equity incentive plans. The Company does not have pending before the SEC any request for confidential treatment of information. Except for the issuance of the Securities contemplated by this Agreement or as set forth on Schedule 3.1(i), no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one Trading Day prior to the date that this representation is made.

(j) Litigation. Except as set forth in Schedule 3.1(j), there is no action, suit, notice of violation, proceeding or investigation, inquiry or other similar proceeding of any federal or state governmental authority pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "**Action**") which (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the issuance of the Securities or (ii) could, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. The Company has no reason to believe that an Action will be filed against it in the future. Except as set forth in Schedule 3.1(j), neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the SEC involving the Company or any current or former director or officer of the Company. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act, and the Company has no reason to believe it will do so in the future.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no effort is underway to unionize or organize the employees of the Company or any Subsidiary. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment

and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. There is no workmen's compensation liability matter, employment-related charge, complaint, grievance, investigation, inquiry or obligation of any kind pending, or to the Company's knowledge, threatened, relating to an alleged violation or breach by the Company or its Subsidiaries of any law, regulation or contract that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has no reason to believe that any individual may commence an Action or file a claim with any governmental authority against the Company alleging sexual harassment or any type of discrimination or violation of any Laws.

(l) Compliance. Except as set forth on Schedule 3.1(l), neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws and regulations relating to taxes, securities, environmental protection, occupational health and safety, product quality and safety, transportation, and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "**Hazardous Materials**") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("**Environmental Laws**"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect ("**Material Permits**"), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries, and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

(p) Intellectual Property.

(i) Except as set forth in Schedule 3.1(p), the Company owns or possesses or has the right to use pursuant to a valid and enforceable written license, sublicense, agreement, or permission all Intellectual Property necessary for the operation of the business of the Company as presently conducted, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(ii) The Company has no knowledge that the Intellectual Property interferes with, infringe upon, misappropriate, or otherwise come into conflict with, any Intellectual Property rights of third parties, and the Company has no knowledge that facts exist which indicate a likelihood of the foregoing. The Company has not received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or conflict (including any claim that the Company must license or refrain from using any Intellectual Property rights of any third party). To the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with, any Intellectual Property rights of the Company, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(q) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

(r) Transactions With Affiliates and Employees. Except as disclosed in the SEC Reports, none of the officers, directors or Affiliates of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director, Affiliate or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of $120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock award agreements under any equity incentive plan of the Company.

(s) Sarbanes-Oxley; Internal Accounting Controls. Except as disclosed in Schedule 3.1(s), the Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002 that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof and as of the applicable Closing. The Company and the Subsidiaries maintain a system of internal accounting controls as set forth in the SEC Reports. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the

Exchange Act (such date, the "**Evaluation Date**"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(t) Certain Fees. Other than as set forth on Schedule 3.1(t), no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section 3.1(t) that may be due in connection with the transactions contemplated by the Transaction Documents.

(u) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(v) Registration Rights. Other than as set forth on Schedule 3.1(v), no Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary. The Company shall not file any other resale registration statement prior to filing the registration statement required hereunder.

(w) Listing and Maintenance Requirements. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the SEC is contemplating terminating such registration. The Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company ("**DTC**") or another established clearing corporation and the Company is current in payment of the fees to the DTC (or such other established clearing corporation) in connection with such electronic transfer. The Company is not subject to any "chill" issued by the DTC.

(x) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's Charter (or similar charter documents) or the Laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities, the Series E Shares, the Conversion Shares, the Warrants and the Warrant Shares.

(y) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed in the SEC Reports. The Company understands and confirms that the Purchasers will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchasers regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. The press releases disseminated by the Company during the 12 months preceding the date of this Agreement do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(z) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(aa) Indebtedness. Except as set forth on Schedule 3.1(aa), the Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. Schedule 3.1(aa) set forth as of the time immediately following the Closing hereof all outstanding Indebtedness of the Company or any Subsidiary. For the purposes of this Agreement, "**Indebtedness**" means (x) any liabilities for borrowed money or amounts owed in excess of $50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of $50,000 due under leases required to be capitalized in accordance with GAAP. Except as set forth on Schedule 3.1(aa), neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

(bb) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company or of any Subsidiary know of no basis for any such claim.

(cc) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of Law, or (iv) violated any provision of FCPA.

(dd) Accountants. The Company's accounting firm is set forth in the SEC Reports. To the knowledge and belief of the Company, such accounting firm (i) is a registered public accounting firm as required by the Exchange Act and (ii) has expressed its opinion with respect to the financial statements included in the Company's Annual Report on Form 10-K for the fiscal year ending December 31, 2019.

(ee) Acknowledgment Regarding Purchasers' Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Securities. The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(ff) Acknowledgement Regarding Purchaser's Trading Activity. Notwithstanding anything in this Agreement or elsewhere to the contrary (except for Sections 3.2(f) and 4.12 hereof), it is understood and acknowledged by the Company that: (i) no Purchaser has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) any Purchaser, and counter-parties in "derivative" transactions to which any such Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) each Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) one or more Purchasers may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Warrant Shares deliverable with respect to the Warrants are being determined, and (z) such hedging activities (if any) could reduce the value of the existing shareholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(gg) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of the Common Stock to facilitate the sale of the Securities, or (ii) paid or agreed to pay to any Person any compensation for soliciting another to purchase the Securities or any other securities of the Company.

(hh) Private Placement. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchasers as contemplated hereby.

(ii) No General Solicitation. Neither the Company nor any person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchasers and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(jj) No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506(b) under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company's outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale, nor any Person, including a placement agent, who will receive a commission or fees for soliciting purchasers (each, an "**Issuer Covered Person**" and, together, "**Issuer Covered Persons**") is subject to any of the "Bad Actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a "**Disqualification Event**"), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchasers a copy of any disclosures provided thereunder.

(kk) Notice of Disqualification Events. The Company will notify the Purchasers in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, reasonably be expected to become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

(ll) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("**OFAC**").

(mm) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

(nn) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the "**BHCA**") and to regulation by the Board of Governors of the Federal Reserve System (the " **Federal Reserve**"). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, 5% or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(oo) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with

applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the "**Money Laundering Laws**"), and no Action by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

Section 3.2 Representations and Warranties of the Purchasers. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants to the Company as follows which representations and warranties shall be true and correct as of the date hereof and as of the Closing Date:

(a) Organization; Authority. Such Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by this Agreement and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and performance by such Purchaser of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Understandings or Arrangements. Such Purchaser is acquiring the Securities as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty not limiting such Purchaser's right to sell the Securities in compliance with applicable federal and state securities laws). Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business. Such Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring such Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting such Purchaser's right to sell such Securities in compliance with applicable federal and state securities laws).

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and as of the date hereof it is, an accredited investor within the meaning of Rule 501 under the Securities Act. No Purchaser is subject to any Disqualification Event, except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3).

(d) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(e) Access to Information. Such Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded, subject to Regulation FD, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. Such Purchaser acknowledges and agrees that neither the Company nor anyone else has provided such Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired.

(f) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, such Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to such Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, such Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect Short Sales or similar transactions in the future.

The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect such Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transaction contemplated hereby.

ARTICLE IV
OTHER AGREEMENTS OF THE PARTIES

Section 4.1 Removal of Legends.

(a) The Series E Shares, the Conversion Shares, the Warrants and Warrant Shares may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of the Series E Shares, the Conversion Shares, Warrants or Warrant Shares other than pursuant to an effective

registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company at the cost of the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Series E Shares, Conversion Shares, Warrants or Warrant Shares under the Securities Act.

(b) Each Purchaser agrees to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Series E Shares, Conversion Shares, the Warrants or Warrant Shares in substantially the following form:

NEITHER THIS SECURITY NOR THE SECURITIES INTO WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN “ACCREDITED INVESTOR” AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Series E Shares, a Warrant, the Conversion Shares or Warrant Shares to a financial institution that is an “accredited investor” as defined in Rule 501(a) under the Securities Act and who agrees to be bound by the provisions of this Agreement and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Series E Shares, a Warrant, Conversion Shares or Warrant Shares to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser’s expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Series E Shares, a Warrant, Conversion Shares and Warrant Shares may reasonably request in connection with a pledge or transfer of the Series E Shares, a Warrant, Conversion Shares or Warrant Shares.

(c) Certificates evidencing the Series E Shares, the Conversion Shares and the Warrant Shares (or the Transfer Agent’s records if held in book entry form) shall not contain any legend (including the legend set forth in Section 4.1(b) hereof): (i) while a registration statement covering the resale of such securities is effective under the Securities Act (the “**Effective Date**”), (ii) following any sale of such Series E Shares, Conversion Shares or Warrant Shares pursuant to Rule 144, (iii) if such Series E Shares, Conversion Shares or Warrant Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Series E Shares, Conversion Shares or Warrant Shares and without volume or manner-of-sale restrictions or (iv) if such legend is not required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7) judicial interpretations and pronouncements issued by the staff of the SEC). The Company shall, at its expense, cause its counsel to issue a legal opinion to the Transfer Agent promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder. If any Series E Share are converted or a Warrant is exercised at a time when there is an effective registration statement to cover the resale of the Conversion Shares or the Warrant Shares, or if such Conversion Shares or Warrant Shares may be sold under Rule 144 and the Company is then in compliance with the current public information required under Rule 144, or if the Conversion Shares or Warrant Shares may be sold under Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Conversion Shares or Warrant Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including Sections 4(a)(1) and 4(a)(7), judicial interpretations and pronouncements issued by the staff of the SEC) then such Conversion Shares or Warrant Shares shall be issued or reissued free of all legends. The Company agrees that following the effective date of any registration statement or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than two Trading Days following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing restricted Series E Shares, Conversion Shares or Warrant Shares, as applicable, issued with a restrictive legend (such second Trading Day, the “**Legend Removal Date**”), deliver or cause to be delivered to such Purchaser a certificate representing such Series E Shares, Conversion Shares or Warrant Shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4.1. Certificates for Series E Shares, Conversion Shares or Warrant Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser’s prime broker with the Depository Trust Company system as directed by such Purchaser. The Company shall be responsible for any delays caused by its Transfer Agent.

(d) In addition to such Purchaser’s other available remedies, subject to Section 5.18(a) but not Section 5.18(b), (i) the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, for each $1,000 of the Stated Value of the Series E Shares (as defined in the Series E COD) being converted or the value of the Warrant Shares for which a Warrant is being exercised (based on the Warrant Exercise Price), $10 per Trading Day for each Trading Day after the Legend Removal Date (increasing to $20 per Trading Day after the fifth Trading Day) until such certificate is delivered without a legend. Nothing herein shall limit such Purchaser’s right to pursue actual damages for the Company’s failure to deliver certificates representing any Securities as required by the Transaction Documents, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief, and (ii) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock that such Purchaser anticipated receiving from the Company without any restrictive legend, then, the Company shall pay to such Purchaser, in cash, an amount equal to the excess of such Purchaser’s total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) over the product of (A) such number of Conversion Shares or Warrant Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (B) the highest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Conversion Shares or Warrant Shares (as the case may be) and ending on the date of such delivery and payment under this Section 4.1(d).

(e) In the event a Purchaser shall request delivery of unlegended shares as described in this Section 4.1 and the Company is required to deliver such unlegended shares, (i) it shall pay all fees and expenses associated with or required by the legend removal and/or transfer including but not limited to legal fees, Transfer Agent fees and overnight delivery charges and taxes, if any, imposed by any applicable government upon the issuance of Common Stock; and (ii) the Company may not refuse to deliver unlegended shares based on any claim that such Purchaser or anyone associated or affiliated with such Purchaser has not complied with Purchaser’s obligations under the Transaction Documents, or for any other reason, unless, an injunction or temporary restraining order from a

court, on notice, restraining and or enjoining delivery of such unlegended shares shall have been sought and obtained by the Company and the Company has posted a surety bond for the benefit of such Purchaser in the amount of the greater of (i) 150% of the amount of the aggregate purchase price of the Conversion Shares (based on the amount of the Stated Value of the Series E Shares (as defined in the Series E COD) which was converted) and Warrant Shares (based on exercise price in effect upon exercise) which is subject to the injunction or temporary restraining order, or (ii) the VWAP of the Common Stock on the Trading Day before the issue date of the injunction multiplied by the number of unlegended shares to be subject to the injunction, which bond shall remain in effect until the completion of the litigation of the dispute and the proceeds of which shall be payable to such Purchaser to the extent Purchaser obtains judgment in Purchaser's favor.

(f) The Company shall (A) pay the reasonable legal fees of the Purchaser's choice (in an amount not to exceed $500 per legal opinion, and not more often than once per week per Purchaser) in connection with the conversion of the Series E Shares or the Warrants, and (B) cause its attorneys to promptly provide any reliance opinion to the Transfer Agent.

Section 4.2 Furnishing of Information.

(a) Until the earliest of the time that (i) no Purchaser owns Conversion Shares and Warrant Shares or (ii) the Warrants have expired, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six month anniversary of the date hereof and ending at such time on the earlier to occur that the Warrants are not outstanding, terminated or that all of the Warrant Shares (assuming cashless exercise) may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) for a period of more than 30 consecutive days or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) for a period of more than 30 consecutive days (a "**Public Information Failure**") then, in addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Conversion Shares and/or Warrant Shares, an amount in cash equal to two percent of the aggregate Stated Value (as defined in the Series E COD) of such Purchaser's Series E Shares and/or Warrant Exercise Price of such Purchaser's Warrants on the day of a Public Information Failure and, subject to Section 5.18, on every 30th day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Conversion Shares and/or Warrant Shares pursuant to Rule 144. Public Information Failure payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure payments are incurred and (ii) the second Trading Day after the event or failure giving rise to the Public Information Failure payments is cured. In the event the Company fails to make Public Information Failure payments in a timely manner, such Public Information Failure payments shall bear interest at the rate of one and one-half percent per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser's right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

Section 4.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2(a)(1) of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

Section 4.4 Securities Laws Disclosure; Publicity. The Company shall file a Current Report on Form 8-K disclosing the material terms of this Agreement, including the Transaction Documents as exhibits thereto, prior to 9:00 AM (New York Time) on the first Trading Day after the Closing Date. From and after the filing of the Form 8-K as provided in the preceding sentence, the Company represents to each Purchaser that it shall have publicly disclosed all material, non-public information delivered to each Purchaser by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees or agents in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the issuance of such Form 8-K, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees or Affiliates on the one hand, and any of the Purchasers or any of their Affiliates on the other hand, shall terminate. The Company and each Purchaser shall consult with each other in issuing any press releases with respect to the transactions contemplated hereby, and neither the Company nor any Purchaser shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Purchaser, or without the prior consent of each Purchaser, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the SEC or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except (a) as required by the staff of the SEC in connection with the filing of final Transaction Documents with the SEC and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this clause (b).

Section 4.5 Shareholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an "Acquiring Person" under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and any Purchaser.

Section 4.6 Non-Public Information. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.4, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide any Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information (including providing any Pre-Notice or Subsequent Financing Notice under the Series E COD (as those terms are defined in the Series E COD)), unless prior thereto such Purchaser shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. Prior to providing a Purchaser with any material non-public information (including any Pre-Notice or Subsequent Financing provided for under the Series E COD (as those terms are defined in the Series E COD)), the Company shall provide the Purchaser with a consent substantially in the form attached

as Exhibit E ("**Consent**") which shall not include any material non-public information. The Company shall not provide the Purchaser with the material non-public information if the Purchaser does not execute and return the Consent to the Company. To the extent that any notice provided pursuant to any Transaction Document or any other communications made by the Company, or information provided, to any Purchaser constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, and such information was provided without such Purchaser's prior written consent, the Company shall simultaneously file such notice or other material information with the SEC pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company delivers any material, non-public information to a Purchaser without such Purchaser's consent, the Company hereby covenants and agrees that such Purchaser shall not have any duty of confidentiality to the Company, any of its Subsidiaries, or any of their respective officers, directors, agents, employees or Affiliates, not to trade on the basis of, such material, non-public information, provided that the Purchaser shall remain subject to applicable law. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company provides any material, non-public information to the Purchasers without their prior written consent, and it fails to immediately (no later than the next Trading Day) file a Form 8-K disclosing this material, non-public information, it shall, subject to Section 5.18, pay each Purchasers as partial liquidated damages and not as a penalty a sum equal to $500 per day for each $100,000 of each Purchaser's Subscription Amount beginning with the day the information is disclosed to the Purchaser and ending and including the day the Form 8-K disclosing this information is filed; provided that no such liquidated damages shall be owed to any Purchaser not then holding Securities.

Section 4.7 Use of Proceeds. The Company shall use the net proceeds from the sale of Securities hereunder at the Initial Closing for working capital purposes and as otherwise provided on Schedule 4.7 and shall not use such proceeds: (a) for the satisfaction of any other portion of the Company's debt that is specified on Schedule 4.7, (b) for the redemption of any Common Stock or Common Stock Equivalents, or (c) for the settlement of any outstanding litigation, (d) in violation of FCPA or OFAC regulations, (e) to lend money, give credit, or make advances to any officers, directors, employees or affiliates of the Company or (f) for the purchase of real estate.

Section 4.8 Indemnification of the Purchasers. Subject to the provisions of this Section 4.8, the Company will indemnify and hold the Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a "**Purchaser Party**") harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys' fees and costs of investigation (including local counsel, if retained) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any shareholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is based upon a breach of such Purchaser Party's representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such shareholder or any conduct by such Purchaser Party which constitutes willful misconduct or gross negligence). If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of the Purchaser Party, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel (in addition to local counsel, if retained). The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company's prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party's breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Purchaser Parties shall have the right to settle any action against any of them by the payment of money provided that they cannot agree to any equitable relief and the Company, its officers, directors and Affiliates receive unconditional releases in customary form. The indemnification required by this Section 4.8 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

Section 4.9 Reservation of Common Stock. Immediately upon each Closing, the Company shall reserve an amount equal to or greater than three times the number of shares of Common Stock issuable upon conversion of the Series E Shares and exercise of the Warrants. The initial reservation amount shall be 356,125,714 shares for the Purchasers investing in the Initial Closing on a pro rata basis based on the Purchaser's Subscription Amount (subject to adjustment for stock splits and dividends, combinations and similar events). The Company shall execute and cause the Transfer Agent to execute a reservation letter in the form attached as Exhibit F. In addition to any other remedies provided by this Agreement or other Transaction Documents, if the Company at any time fails to meet this reservation of Common Stock requirement it shall sell to the Company's chief executive officer (or such other officer as the board of directors may designate) for $100 a series of preferred stock which contains the power to vote a number of votes equal to 51% of the number of votes eligible to vote at any special or annual meeting of the Company's shareholders (with the power to take action by written consent in lieu of a shareholders meeting) for the sole purpose of amending the Company's Charter to increase its authorized Common Stock, which such preferred stock shall be automatically cancelled upon the effectuation of the resulting increased in the Company's authorized shares, and if the Company at any time fails to meet this reservation of Common Stock requirement within 45 days after written notice from the Purchaser, it shall, subject to Section 5.18, pay the Purchaser as partial liquidated damages and not as a penalty a sum equal to $500 per day for each $100,000 of the Purchaser's Subscription Amount and The Company shall not enter into any agreement or file any amendment to its Charter (including the filing of a Certificate of Designation) which conflicts with this Section 4.9 while the Series E Shares and Warrants remain outstanding.

Section 4.10 Listing of Common Stock. The Company hereby agrees to use best efforts to maintain the listing or quotation of the Common Stock on the Trading Market on which it is currently listed or quoted; provided, however, the Company shall if it qualifies, list its Common Stock on a Trading Market which is a national securities exchange. The Company will then take all action necessary to continue the listing and trading of its Common Stock on a Trading Market and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. The Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the DTC or another established clearing corporation, including, without limitation, by timely payment of fees to the DTC or such other established clearing corporation in connection with such electronic transfer.

Section 4.11 Equal Treatment of Purchasers. No consideration (including any modification of any Transaction Document) shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of the Transaction Documents unless the same consideration is also offered to all of the parties to the Transaction Documents. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

Section 4.12 Certain Transactions and Confidentiality. Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4. Each Purchaser, severally and not jointly with the other Purchasers, covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.4, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules. Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4 and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company or its Subsidiaries after the issuance of the initial press release as described in Section 4.4. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

Section 4.13 Conversion and Exercise Procedures. The form of Notice of Conversion for Series E Shares attached hereto as Exhibit F and Notice of Exercise included in the Warrants set forth the totality of the procedures required of the Purchasers in order to convert the Series E Shares or to exercise the Warrants. No additional legal opinion, other information or instructions shall be required of the Purchasers to convert their Series E Shares or exercise their Warrants. Without limiting the preceding sentences, no ink-original Conversion Notice or Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice or Notice of Exercise form be required in order to convert the Series E Shares or exercise the Warrants. The Company shall honor conversions of the Series E Notes and exercises of the Warrants and shall deliver Conversion Shares and Warrant Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

Section 4.14 DTC Program. For so long as any Warrants are outstanding, the Company will employ as the Transfer Agent for the Common Stock and Warrant Shares a participant in the DTC Automated Securities Transfer Program and cause the Common Stock to be transferable pursuant to such program.

Section 4.15 Maintenance of Property. The Company shall keep all of its property, which is necessary or useful to the conduct of its business, in good working order and condition, ordinary wear and tear excepted.

Section 4.16 Preservation of Corporate Existence. The Company shall preserve and maintain its corporate existence, rights, privileges and franchises in the jurisdiction of its incorporation, and qualify and remain qualified, as a foreign corporation in each jurisdiction in which such qualification is necessary in view of its business or operations and where the failure to qualify or remain qualified might reasonably have a Material Adverse Effect upon the financial condition, business or operations of the Company taken as a whole.

Section 4.17 D&O Insurance. The Company shall maintain director and officer insurance on behalf of the Company and its officers and directors for 18 months after the Closing with respect to any losses, claims, damages, liabilities, costs and expense in connection with any actual or threatened claim or proceeding that is based on, or arises out of their status as a director or officer of the Company. The insurance policy shall cover SEC investigations for the Company and its officers and directors and provide for two years of tail coverage.

Section 4.18 Subsequent Equity Sales.

(a) From the date hereof until the date that is the 18 month anniversary of the Closing Date, the Company will not, without the consent of the holders of a majority of the outstanding Series E Shares, enter into any Equity Line of Credit or similar agreement, nor issue nor agree to issue any common stock, floating or Variable Priced Equity Linked Instruments nor any of the foregoing or equity with price reset rights (subject to adjustment for stock splits, distributions, dividends, recapitalizations and the like) (collectively, the "**Variable Rate Transaction**"). For purposes hereof, "**Equity Line of Credit**" shall include any transaction involving a written agreement between the Company and an investor or underwriter whereby the Company has the right to "put" its securities to the investor or underwriter over an agreed period of time and at an agreed price or price formula, and "**Variable Priced Equity Linked Instruments**" shall include: (A) any debt or equity securities which are convertible into, exercisable or exchangeable for, or carry the right to receive additional shares of Common Stock either (1) at any conversion, exercise or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security, or (2) with a fixed conversion, exercise or exchange price that is subject to being reset at some future date at any time after the initial issuance of such debt or equity security due to a change in the market price of the Company's Common Stock since date of initial issuance, and (B) any amortizing convertible security which amortizes prior to its maturity date, where the Company is required or has the option to (or any investor in such transaction has the option to require the Company to) make such amortization payments in shares of Common Stock which are valued at a price that is based upon and/or varies with the trading prices of or quotations for Common Stock at any time after the initial issuance of such debt or equity security (whether or not such payments in stock are subject to certain equity conditions). For purposes of determining the total consideration for a convertible instrument (including a right to purchase equity of the Company) issued, subject to an original issue or similar discount or which principal amount is directly or indirectly increased after issuance, the consideration will be deemed to be the actual cash amount received by the Company in consideration of the original issuance of such convertible instrument.

(b) From the date hereof until the second anniversary of the Closing Date, in the event that the Company issues or sells any Common Stock or Common Stock Equivalents (excluding, with respect to convertible debt, those terms and conditions attributable to the security's debt character including interest

and seniority over equity), if a Purchaser then holding Securities purchased under this Agreement reasonably believes that any of the terms and conditions appurtenant to such issuance or sale are more favorable to such investors than are the terms and conditions granted to the Purchasers hereunder, upon notice to the Company by such Purchaser within five Trading Days after disclosure of such issuance or sale, the Company shall amend the terms of this transaction as to such Purchaser only so as to give such Purchaser the benefit of such more favorable terms or conditions.

(c) Notwithstanding the foregoing, this Section 4.18 shall not apply in respect of an Exempt Issuance. The Company shall provide each Purchaser with notice of any such issuance or sale in the manner for disclosure of subsequent financings set forth in the Series E COD.

Section 4.19 No Registration of Securities. Except as disclosed on Schedule 4.19, while the Series E Shares are outstanding, the Company will not file any registration statements to register sales of Common Stock, including shares underlying any derivative securities, unless a registration statement is then in effect for the resale by the Purchasers of the Conversion Shares.

Section 4.20 Capital Changes. Until the one year anniversary of the Closing Date, the Company shall not undertake a reverse or forward stock split or reclassification of the Common Stock without the prior written consent of the Purchasers holding a majority of the outstanding shares of Series E, provided that for avoidance of doubt this Section does not apply to the Company's amending its Certificate of Incorporation to increase its authorized shares of Common Stock or to the Company undertaking a reverse stock split in order for it to meet, in part, the listing requirements of the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange.

Section 4.21 OTCQB. The Company shall use commercially reasonable efforts to have its Common Stock listed on the OTCQB Venture Market within 30 days of this Agreement.

ARTICLE V
MISCELLANEOUS

Section 5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the Closing has not been consummated on or before December 31, 2020; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

Section 5.2 Fees and Expenses. Except as expressly set forth below and in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchasers. Upon the Closing, out of the proceeds of this transaction the Company shall pay counsel for the Lead Investor a total of up to $44,000 in fees together with reasonable out of pocket costs, in an amount not to exceed $800. The Lead Investor may withhold these legal fees from its Subscription Amount.

Section 5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

Section 5.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the date of transmission, if such notice or communication is delivered via facsimile or email attachment at the facsimile number or email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile or email attachment at the facsimile number or email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

Section 5.5 Amendments; Waivers. Except as provided in the last sentence of this Section 5.5, no provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and the Purchasers who purchased at least a majority in interest of the initial Subscription Amounts hereunder or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought; provided, that if any amendment, modification or waiver disproportionately and adversely impacts a Purchaser (or group of Purchasers), the consent of such disproportionately impacted Purchaser (or group of Purchasers) shall also be required. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any proposed amendment or waiver that disproportionately, materially and adversely affects the rights and obligations of any Purchaser relative to the comparable rights and obligations of the other Purchasers shall require the prior written consent of such adversely affected Purchaser, Any amendment effected in accordance with accordance with this Section 5.5 shall be binding upon each Purchaser and holder of Securities and the Company. In order to amend the definition of Exempt Issuance, the written consent of the Company and each Purchaser must be obtained.

Section 5.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

Section 5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the Purchasers.

Section 5.8 No Third-Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective successors and

permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.8 and this Section 5.8.

Section 5.9 Governing Law; Exclusive Jurisdiction; Attorneys' Fees. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents except the Series E COD shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. All questions concerning the construction, validity, enforcement and interpretation of the Series E COD shall be governed by and construed and enforced in accordance with the internal laws of the State of Nevada, without regard to the principles of conflicts of law thereof. Each party agrees that all Actions concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts in New York County, New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in New York County, New York for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action, any claim that it is not personally subject to the jurisdiction of any such court, that such Action is improper or is an inconvenient venue for such Action. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company elsewhere in this Agreement, the prevailing party in such Action shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action.

Section 5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

Section 5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

Section 5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

Section 5.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of an exercise of a Warrant, the applicable Purchaser shall be required to return any shares of Common Stock subject to any such rescinded exercise notice concurrently with the return to such Purchaser of the aggregate exercise price paid to the Company for such shares and the restoration of such Purchaser's right to acquire such shares pursuant to such Purchaser's Warrant (including, issuance of a replacement warrant certificate evidencing such restored right).

Section 5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction without requiring the posting of any bond.

Section 5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

Section 5.16 Payment Set Aside. To the extent the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

Section 5.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each

provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

Section 5.18 Liquidated Damages.

(a) The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company, provided, however, that, as to each Purchaser (or transferee thereof), such obligations shall terminate when such Purchaser (or transferee thereof) ceases to hold the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable for any reason including, but not limited to, conversion, exercise, redemption or exchange and such Purchaser (or any transferee) has been paid such liquidated damages or other amounts that are owed to it.

(b) Except as otherwise provided herein, the Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents to any particular Purchaser shall be limited to the product of (i) the partial liquidated damages or other amounts that would be owing under the Transaction Documents (excluding the effect of this Section 5.18(b)) multiplied by (ii) a fraction (A) the numerator of which is the equal to the total of the Stated Value of the Series E Shares (as defined in the Series E COD) then-held by such Purchaser plus the value of the Warrant Shares (based on the Warrant Exercise Price) then-issuable to such Purchaser under such Purchaser's Warrant and (B) the denominator of which is equal to such Purchaser's Subscription Amount.

Section 5.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

Section 5.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

Section 5.21 **WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVE FOREVER TRIAL BY JURY**.

Section 5.22 Non-Circumvention. The Company hereby covenants and agrees that the Company will not, by amendment of its Charter, including any Certificates of Designation, or Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, and will at all times in good faith carry out all of the provision of this Agreement and take all action as may be required to protect the rights of all holders of the Securities. Without limiting the generality of the foregoing or any other provision of this Agreement or the other Transaction Documents, the Company (a) shall not increase the par value of any shares of Common Stock receivable upon conversion of the Series E Shares or exercise of the Warrants above the conversion price of the Series E Shares, or Warrant Exercise Price, as applicable, then in effect and (b) shall take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Conversion Shares upon the conversion of the Series E Shares and Warrant Shares upon exercise of the Warrants. Notwithstanding anything herein to the contrary, if after six months from the Initial Closing, a holder is not permitted to convert the Series E Shares or exercise the Warrants, in full, for any reason, the Company shall use its best efforts to promptly remedy such failure, including, without limitation, obtaining such consent or approvals as necessary to permit such conversion or exercise.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Transportation and Logistics Systems, Inc.

By: ______________________________
Name: John Mercadante, Jr.
Title: Chief Executive Officer

Address for Notice:
5500 Military Trail, Suite 22-357
Jupiter, Florida 33458
Email: john@primeefs.com

With a copy to (which shall not constitute notice):

Akabas & Sproule 488 Madison Avenue, 11 th Floor
New York, New York 10022 Email: sakabas@akabas-sproule.com

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

PURCHASER SIGNATURE PAGES TO SECURITIES PURCHASE AGREEMENT

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: ____
Signature of Authorized Signatory of Purchaser: ____________________________
Name of Authorized Signatory: ____
Title of Authorized Signatory: ____
Email Address of Authorized Signatory: ____
Facsimile Number of Authorized Signatory: ____
Address for Notice to Purchaser:

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Subscription Amount: $_________________

Series E Shares: __________________

Warrant Shares: __________________

EIN Number: _______________________

EXHIBIT A
Form of Amended and Restated Series E COD

EXHIBIT B
Form of Registration Rights Agreement

EXHIBIT C
Form of Warrant

EXHIBIT D
Form of Reserve Letter
Irrevocable Transfer Agent Instructions

TRANSPORTATION & LOGISTICS SYSTEMS, INC.
5500 Military Trail, Suite 22-357
Jupiter, Florida 33458

Equiniti Trust Company
Attention: EQ Shareowner Services
1100 Centre Pointe Curve, Suite 101
Mendota Heights, MN 55120

December ___, 2020

Ladies and Gentlemen:

Transportation and Logistics Systems, Inc. (“Issuer”) a Nevada corporation and **[INVESTOR]** (“Investor”) have entered into a Securities Purchase Agreement, dated as of December ___, 2020 (the “Agreement”) providing for the issuance of [•] shares of the Company’s Series E Convertible Preferred Stock (the “Preferred Shares”) and a Warrant (the “Warrant”) to purchase [•] shares of common stock (“Common Stock”) of the Company.

Copies of the Certificate of Designations, Preferences, Rights and Limitations of the Preferred Shares (the “Certificate of Designation”) and the Warrant are attached hereto. Equiniti Trust Company (“You” or “Equiniti”) should familiarize yourself with your issuance and delivery obligations, as Transfer Agent, contained herein. The shares to be issued are to be registered in the name of the registered holder of the Preferred Shares submitted for conversion or exercise.

In accordance with this Irrevocable Transfer Instruction Agreement, you are hereby irrevocably authorized and instructed to reserve [•] shares of common stock (“Common Stock”) of the Company for issuance upon conversion of the Preferred Shares and exercise of the Warrant. The amount of Common Stock so reserved may be increased, from time to time, by written instructions of the Company so long as there are sufficient authorized and unissued shares of the Company not otherwise reserved available to do so. In addition, you are hereby directed, upon being notified by the Company, to adjust the share reserve as instructed by the Company who shall give such instructions in accordance with Sections 9 and 10 of the Certificate of Designation and Section 3 of the Warrant. **Notwithstanding anything to the contrary in this Agreement, Equiniti has no obligation to confirm the accuracy of a notice of conversion (a “Conversion Notice”).**

Equiniti is hereby irrevocably authorized and instructed to issue shares of Common Stock of the Company to the Investor, and remove all stop-transfer instructions relating to such shares, upon Equiniti's receipt from the Investor of a Conversion Notice, Exercise Notice and notice by Investor's counsel that the shares have been registered under the Securities Act of 1933 ("1933 Act") or otherwise may be sold pursuant to Rule 144 without any restriction, and the Company or its counsel or Investor's counsel provides an opinion of counsel to that effect in form, substance and scope customary for opinions of counsel in comparable transactions (and satisfactory to Equiniti), together with other documentation that may reasonably be requested, and the number of shares to be issued are less than 4.99% of the total issued and outstanding common stock of the Company (unless this requirement has been waived by the Company and the Investor). Such shares shall be issued to the account of the Investor either (i) electronically by crediting the account of a Prime Broker with the Depository Trust Company through its Deposit/Withdrawal Agent Commission system, provided that the Company has been made FAST/DRS eligible by DTCC (DWAC), or (ii) in certificated form without any legend which would restrict the transfer of the shares, and you should remove all stop-transfer instructions relating to such shares (such shares shall be issued from the reserve, and the number of shares reserved shall be reduced on a one-for-one basis with the shares issued, but in the event there are insufficient reserve shares of Common Stock to accommodate a Conversion Notice or Exercise Notice, Equiniti and the Company agree that the Conversion Notice or Exercise Notice should be completed using authorized but unissued shares of Common Stock that the Company has in its treasury that are not otherwise reserved). If the shares of Common Stock are eligible to be electronically delivered via DWAC ((i) above), the shares of Common Stock shall be delivered in that manner. Equiniti is not responsible for the accuracy set forth in the Conversion Notice or Exercise Notice, as applicable. Until such time as Equiniti is advised by Investor or Company counsel as above that the shares have been registered under the 1933 Act or otherwise may be sold pursuant to Rule 144 without any restriction, you are hereby instructed to reflect that fact in your records and to place the following legend on the certificates:

THESE SECURITIES HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THESE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT WITH A REGISTERED BROKER-DEALER OR OTHER LOAN WITH A FINANCIAL INSTITUTION THAT IS AN "ACCREDITED INVESTOR" AS DEFINED IN RULE 501(a) UNDER THE SECURITIES ACT OR OTHER LOAN SECURED BY SUCH SECURITIES.

The Company hereby requests that your firm act promptly, without unreasonable delay and without the need for any action or confirmation by the Company with respect to the issuance of Common Stock pursuant to any Conversion Notices or Exercise Notices received from the Investor.

The Company shall indemnify you and your officers, directors, principals, partners, agents and representatives, and hold each of them harmless from and against any and all loss, liability, damage, claim or expense (including the reasonable fees and disbursements of its attorneys) incurred by or asserted against you or any of them arising out of or in connection with the instructions set forth herein, the performance of your duties hereunder and otherwise in respect hereof, including the costs and expenses of defending yourself or themselves against any claim or liability hereunder, including claims that may be asserted by the Company, except that the Company shall not be liable hereunder as to matters in respect of which it is determined that you have acted with gross negligence or in bad faith. You shall have no liability to the Company in respect to any action taken or any failure to act in respect of this if such action was taken or omitted to be taken in good faith, and you shall be entitled to rely in this regard on the advice of counsel.

The Board of Directors of the Company has approved this Irrevocable Transfer Instruction Agreement including the irrevocable instructions and does hereby extend the Company's irrevocable agreement to indemnify Equiniti for all loss, liability or expense in carrying out the authority and direction herein contained on the terms herein set forth.

All processing fees will be expected and payable upon receipt of the request from the presenter of such request. The Company and Investor understand and agree that Equiniti Trust Company's fee schedule is subject to change and the Investor and the Company agree to pay the full amount of any such conversion according to the Equiniti Trust Company fee schedule then in force. Equiniti Trust Company shall not be obligated to process any request until and unless its fees are paid. Further, the Company and Investor understand and acknowledge that in the event that the Company is delinquent in payment of fees due Equiniti Trust Company in an amount less than $1,500, Equiniti Trust Company will honor conversion requests with the additional payment of $200.00 per request. In the event that the Company is suspended with Equiniti Trust Company due to non-payment with an account balance owing in excess of $2,500, Investor or Company will be required to bring the account balance current before any transactions will be processed.

The Company agrees that the Equiniti may resign as the Company's Transfer Agent. In that event, or in the event that the Company terminates Equiniti, Equiniti reserves the right to and may complete any issuance or transfer requests then pending. The Company shall engage a suitable replacement transfer agent that will agree to serve as transfer agent for the Company and be bound by the terms and conditions of these Irrevocable Instructions within five business days. In the event that the Company decides to terminate Equiniti, 30 days' notice of termination must be given to Equiniti, all or some of which time period may be waived by Equiniti in its sole discretion, and a fee of $350 per irrevocable instruction letter must be paid prior to termination. Equiniti shall abide by the obligations under this Agreement during the 30 day termination period or so much thereof as it does not waive.

The Company hereby authorizes the issuance of such number of shares under the terms of the Certificate of Designation and the Warrant and any such shares shall be considered fully paid and non-assessable at the time of their issuance. The Company and the Investor agree that Equiniti will be notified in writing by the Company and the Investor when the Preferred Shares and/or the Warrant have been fully converted and if there are any remaining shares in the reservation that are to be released and returned to the Company's authorized shares.

The Investor and Company expressly understand and agree that nothing in this Irrevocable Transfer Instruction Agreement shall require or be construed in any way to require Equiniti, in its sole discretion, to do, take or not do or take any action that would be contrary to any court order, any Federal or State law, rule, or regulation including but expressly not limited to both the 1933 Act and the Securities Exchange Act of 1934 as amended, the rules and regulations promulgated thereunder by the Securities and Exchange Commission, or the transfer agent agreement with the Company.

The Company hereby directs you, upon request by the Investor to immediately provide any capitalization structure information pertaining to the number of common shares of the Company that are issued and outstanding and the amount reserved for the Investor without any further action or confirmation by the Company.

No amendment or modification to the instructions set forth herein may be made without the consent of the Investor.

Transportation and Logistics Systems, Inc. [Investor]

By: ______________________
Name: John Mercadante, Jr.
Title: Chief Executive Officer

By: ______________________
Name:
Title:

Acknowledged and Agreed:
Equiniti Trust Company

By: ______________________
Name:
Title:

EXHIBIT E
Form of Information Consent

Transportation and Logistics Systems, Inc. (the "Company") has information or notice of a proposed event (collectively, the "Information") that it is either required to provide you pursuant to that certain Securities Purchase Agreement dated December ___, 2020 ("Agreement") between you and the Company or believes that you would be interested in obtaining.

You acknowledge that receipt of the Information may restrict you from trading in the Company's securities until the Information is made public in accordance with the Agreement.

Please respond in writing if you do or do not want to be provided with the Information. If the Company does not receive your response within three business days, we will have the right to assume that you have chosen not to receive the Information and, if applicable, waived your right to any subsequent offering rights and any other rights provided for under the Agreements that require notice, for which this Information (including notice) is being given.

Please sign below and check the appropriate box below.

Sincerely,

TRANSPORTATION AND LOGISTICS, INC.

By: ______________________
Name:
Title: Chief Executive Officer

___ Yes. Please provide we with the Information

___ No. Do not provide me with the Information

____
____

EXHIBIT F
Form of Series E Conversion Notice

NOTICE OF CONVERSION

TO: TRANSPORTATION AND LOGISTICS SYSTEMS, INC.

(1) The undersigned hereby elects to convert ___________ shares of Series E Convertible Preferred Stock of the Company into ___________ shares of common stock ("**Conversion Shares**") of the Company pursuant to the terms of the Certificate of Designation, Preferences, Rights And Limitations of Series E Convertible Preferred Stock.

(2) Please issue a certificate or certificates representing said Conversion Shares in the name of the undersigned or in such other name as is specified below:

____

(3) After giving effect to this Notice of Conversion, the undersigned will not have exceeded the Beneficial Ownership Limitation.

The Conversion Shares shall be delivered to the following DWAC Account Number or by physical delivery of a certificate to:

____

____

____

SIGNATURE OF HOLDER

Name of Investing Entity: ____
Signature of Authorized Signatory of Investing Entity: ____
Name of Authorized Signatory: ____
Title of Authorized Signatory: ____
Date: ____

EXHIBIT G
Form of Escrow Agreement

COMPANY DISCLOSURE SCHEDULES

to the

SECURITIES PURCHASE AGREEMENT

by and among

TRANSPORTATION AND LOGISTICS SYSTEMS, INC.

and

THE PURCHASERS PARTY THERETO

Dated as of December 28, 2020

These Company Disclosure Schedules (these " **Schedules**") are delivered pursuant to the Securities Purchase Agreement, dated as of December 23, 2020 (the "**Agreement**"), by and among Transportation and Logistics Systems, Inc., a Nevada corporation (the " **Company**") and the purchasers party thereto, (the "**Purchasers**"). Unless otherwise defined herein, capitalized terms have the meanings set forth in the Agreement. The information set forth in these Schedules, which relates to the representations, warranties, covenants and agreements of the Company, is subject to the following qualifications:

1. These Schedules are qualified in their entirety by reference to the specific provisions of the Agreement, and are not intended to constitute, and shall not be construed as constituting, representations, warranties, covenants or agreements of the Company, except as and to the extent provided in the Agreement. Inclusion of information in these Schedules shall not be deemed an admission or otherwise imply that such information is or is not material to the Company, constitutes or would result in a Material Adverse Effect by the criteria set forth in the Agreement, or that disclosure of any such information is required under any Laws or by any governmental authority.

2. Any matter disclosed in any section or subsection of these Schedules (whether or not specific cross-references are given) shall be deemed to apply to and qualify the section or subsection of the Agreement to which it corresponds in number and each other section or subsection of the Agreement to the extent that it is readily apparent from a reading of the disclosure that such disclosure is applicable to such other sections.

3. The index and headings contained in these Schedules are for reference purposes only and shall not affect in any way the meaning or interpretation of the items in these Schedules in the corresponding sections or subsections of the Agreement.

4. Matters reflected in these Schedules are not necessarily limited to matters required by the Agreement to be reflected therein. Any additional matters are set forth for information purposes and do not necessarily include other matters of a similar nature.

5. These Schedules and the information and disclosures contained in these Schedules shall not be deemed to expand in any way the scope or effect of any representations, warranties or covenants of the Company contained in the Agreement.

6. Disclosure in these Schedules of any allegations with respect to any alleged failure to perform, or breach or default of a contractual or other duty or obligation, is not an admission that such has in fact occurred. Nothing contained in the Schedules should be construed as an admission of liability or responsibility of any party to any third party (including in connection with any pending or threatened suit, litigation, arbitration, claim, action or proceeding). No reference in these Schedules to any agreement or document shall be construed as an admission to any third party that such agreement or document is enforceable or currently in effect or that there are any obligations remaining to be performed or any rights that may be exercised under such agreement or document.

SCHEDULE 3.1(a)

Subsidiaries Name	State of Incorporation
Prime EFS LLC ("**Prime EFS**")	New Jersey
Shypdirect LLC ("**Shypdirect**")	New Jersey
Shyp FX Inc. ("Shyp FX")	New Jersey
TLSS Acquisition, Inc. ("TLSS Acq")	Delaware

SCHEDULE 3.1(b)

Organization and Qualification

1. The Company and its Subsidiaries have recently filed the federal income tax returns for 2018 and 2019. To the knowledge of the executive officers of the Company, the Company and its Subsidiaries have not filed or paid corporate or entity taxes since March 30, 2017. The Company and its Subsidiaries have confirmed that there are no federal tax liens on file within the last 10 years in (1) Nevada (as of August 10, 2020), (2) Florida (as of September 7, 2020), (3) New York (as of September 25, 2020) or (4) New Jersey (as of September 18, 2020). The Company and its Subsidiaries have also confirmed that there are no state tax liens on file within the last 10 years in New York (as of September 25, 2020) or New Jersey (as of September 28, 2020). The Company and its Subsidiaries are in the process of completing and filing all required state income tax returns and has paid an aggregate of approximately $3,300 as applicable state income taxes for 2018 and 2019.

2. Shypdirect is not qualified to conduct business in Florida. To qualify to conduct business in Florida, Shypdirect needs to make an appropriate filing, pay certain payroll taxes owed and pay a small fine.

SCHEDULE 3.1(d)

No Conflicts

None.

SCHEDULE 3.1(e)

Filings, Consents and Approvals

1. The Company must file the Series E COD with the Secretary of State of the State of Nevada.

SCHEDULE 3.1(g)

Capitalization

1. The Company entered an Exchange Agreement (the "**Cavalry Exchange Agreement**") with Cavalry Fund I, LP, (" **Cavalry**") to exchange certain outstanding convertible promissory notes and warrants for a newly created series of preferred stock designated the Series D Convertible Preferred Stock (the "**Series D**"). Pursuant to the Cavalry Exchange Agreement, Cavalry exchanged convertible promissory notes with an aggregate remaining principal amount outstanding of $559,846.31 and warrants to purchase 228,713,916 shares of common stock for 301,457 shares of Series D.

2. On July 22, 2020, the Company entered an Exchange Agreement (the " **Puritan Exchange Agreement**") with another investor, Puritan Partners LLC ("**Puritan**") to exchange outstanding convertible promissory notes and warrants for Series D. Pursuant to the Puritan Exchange Agreement, Puritan exchanged convertible promissory notes with an aggregate remaining principal amount outstanding of $265,843.79 and warrants to purchase 194,445,417 shares of common stock for 221,269 shares of Series D.

3. In an agreement dated August 3, 2020, Bellridge and the Company resolved many of the disputes between them. Among other things, Bellridge and the Company agreed upon the balance of all indebtedness owed to Bellridge as of August 3, 2020 ($2,150,000), a new maturity date on the indebtedness (April 30, 2021), and a price of $0.02 for the conversion of all Bellridge indebtedness into shares of Company common stock. On July 27, 2020, Bellridge converted $620,671.24 of the amount owed into 31,033,352 shares of common stock and on August 4, Bellridge converted $621,575.34 of the Pre-Conversion Balance into 31,078,767 shares of common stock. Following these conversions, the outstanding balance owed to Bellridge was reduced to $907,753.42. Subsequently, between August 6 and 10, 2020, Bellridge converted $450,000 owed into 22,500,000 shares of common stock. On August 13, 2020, Bellridge converted $250,000 of the amount owed into 12,500,000 shares of common stock upon conversion.

4. The Company's capitalization table as of November 30, 2020 is attached hereto in the Excel Spreadsheet identified as Schedule 3.1(g) and incorporated by reference herein. [Omitted]

SCHEDULE 3.1(i)

Material Changes; Undisclosed Events, Liabilities or Developments

1. The disclosure set forth on Schedule 3.1(b) is incorporated by reference herein.

2. The disclosure set forth in Items 1, 3, 4, 5, 6, 7, 8, 9, 13 and 14 of Schedule 3.1(j) is incorporated herein by reference.

3. The disclosure set forth in Items 5, 9 and 10 of Schedule 3.1(l) is incorporated by reference herein.

4. The disclosure set forth in on Schedule 3.1(v) is incorporated by reference herein.

SCHEDULE 3.1(j)

Litigation

1. Default by Prime EFS on June 4, 2020 Settlement with Creditors

On June 4, 2020, Prime EFS LLC ("**Prime EFS**"), a wholly-owned subsidiary of the Company, agreed with two related creditors (the " **Creditors**") to a payment plan (the "**Payment Plan**") to settle, without interest, a total outstanding balance of $2,038,556.06 (the " **Outstanding Balance**") owed by Prime EFS to the Creditors.

Pursuant to the Payment Plan, Prime EFS was obligated to pay $75,000.00 to the Creditors on or before June 5, 2020 and $75,000.00 to the Creditors on or before June 12, 2020.

Thereafter, under the Payment Plan, beginning on June 19, 2020, Prime EFS was obligated to make weekly payments of $15,000.00 to the Creditors each Friday for 125 weeks ending with a final payment of $13,556.06 on November 18, 2022.

Under the Payment Plan, Prime EFS also agreed that, if it fails to make a scheduled payment or otherwise defaults on its obligations, the remaining Outstanding Balance would be accelerated and due, in full, within five business days after receipt by Prime EFS of a notice of default from the Creditors.

Under the Payment Plan, Prime EFS also agreed that, if Prime EFS does not pay the remaining Outstanding Balance within five business days after receipt of a notice of default, then the Creditors will be entitled to 9% per annum simple interest on the remaining Outstanding Balance from the date of default and to recover attorneys' fees and costs for enforcement.

Prime EFS made the $75,000 payments due on each of June 5, 2020 and June 12, 2020.

Prime EFS also made each of the weekly payments due through Friday, September 18, 2020. However, Prime EFS did not make the payment due Friday, September 25, 2020, did not make any further weekly payment due under the Payment Plan, and has no present plan or intention to make any further payments under the Payment Plan because it lacks the cash-on-hand to do so.

By letter dated October 16, 2020, attorneys for the Creditors gave Prime EFS notice of default (the " **Notice of Default**") under the settlement agreement that documents the Payment Plan and related terms and conditions. The Notice of Default correctly states that Prime EFS did not make the payment due under the Payment Plan on September 25, 2020 and has not made any further weekly payments since September 25, 2020. The Notice of Default correctly demands, under the settlement agreement that documents the Payment Plan and related terms and conditions, that, as of the day of Prime EFS's default, Prime EFS owed the Creditors $1,678,556.06, which is accrued on the accompanying condensed consolidated balance at September 30, 2020. In the Notice of Default, the Creditors reserve the right to institute legal proceedings against Prime EFS for its. In the Notice of Default, the Creditors reserve the right to institute legal proceedings against Prime EFS for its defaults under the Payment Plan, to seek default interest at 9% per annum and to seek the Creditors' costs of collection.

To date, Prime EFS has not responded to the Notice of Default and has no present plan or intention to respond.

2. Dispute between Patrick Nicholson and Prime EFS

By letter dated October 9, 2020, attorneys representing Patrick Nicholson allege that Prime EFS is in default of its payment obligations under a "10% Senior Secured Demand Promissory Note" issued February 13, 2019, in the principal amount of $165,000, and under a second promissory note issued April 24, 2019 in the principal amount of $55,000.

In the demand, the attorneys for Mr. Nicholson allege the total balance owed, including interest, is $332,702.84 and that interest is continuing to accrue on each promissory note.

In the demand, the attorneys for Mr. Nicholson also contend that the Company is jointly and severally liable with Prime EFS for this balance.

In the demand, the attorneys for Mr. Nicholson also contend that the great bulk ($276,169) of the alleged balance due arises under the "10% Senior Secured Demand Promissory Note" issued February 13, 2019. However, this promissory note is, by its express terms, governed by New York law, and, in the opinion of Prime EFS's counsel, such note is usurious on the face of it and unenforceable.

Further, in the opinion of counsel, formed after reasonable inquiry, neither promissory note is enforceable against any person or entity other than Prime EFS. If, as threatened, Mr. Nicholson files suit for nonpayment under either or both promissory notes, it is anticipated that the defendant(s) will mount a vigorous defense to the action.

3. Disputes Between Prime EFS, ELRAC LLC, and Enterprise Leasing Company of Philadelphia, LLC

On or about January 10, 2020, Prime EFS was named as sole defendant in a civil action captioned *ELRAC LLC v. Prime EFS*, filed in the United States District Court for the Eastern District of New York, assigned Case No. 1 :20-cv-00211 (the "**ELRAC Action**"). The complaint in the ELRAC Action alleged that Prime EFS failed to pay in full for repairs allegedly required by reason of property damage to delivery vehicles leased by Prime EFS from ELRAC LLC ("**ELRAC**") to conduct its business. The complaint sought damages of not less than $382,000 plus $58,000 in insurance claims that ELRAC believes were collected by the Company and not reimbursed to ELRAC.

ELRAC subsequently moved for a default judgment against Prime EFS. By letter to the court dated March 9, 2020, Prime EFS opposed entry of a default judgment and contended that all claims in the ELRAC Action were subject to mandatory arbitration clauses found in the individual lease agreements. On March 19, 2020, ELRAC filed a stipulation dismissing the ELRAC Action without prejudice and advised Prime EFS that it intends to file an arbitration at the American Arbitration Association alleging essentially identical claims.

During the period it was leasing vans and trucks from ELRAC and its affiliate, Enterprise Leasing Company of Philadelphia, LLC (" **Enterprise PA**" and, with ELRAC, "**Enterprise**"), Prime EFS transferred $387,392 in deposits required by Enterprise as security for the payment of deductibles and uninsured damage to Enterprise's fleet. Despite due demand, Enterprise never accounted to Prime EFS's satisfaction regarding the application of these deposits. On June 10, 2020, Prime EFS therefore initiated an arbitration (the "**Arbitration**") against Enterprise at the American Arbitration Association seeking the return of not less than $327,000 of these deposits.

On October 9, 2020, Enterprise filed its Answer and Counterclaims in the Arbitration. In its Answer, Enterprise denies liability to Prime EFS for $327,000 or any other sum. In its Counterclaims, ELRAC seeks $382,000 in damages and Enterprise PA seeks $256,000 in damages. Enterprise also seeks $62,000 in insurance payments allegedly made by Utica to Prime EFS.

Prime EFS believes the Enterprise Answer and Counterclaims lack merit and intends to defend its position in the Arbitration vigorously. Nevertheless, given the amount of the Counterclaim and the documentation which Enterprise has submitted in the arbitration in support thereof, the Company continues to reflect a liability of $440,000, i.e., the amount originally claimed as damages by ELRAC in the ELRAC's federal action, as a contingency liability on the Company's condensed consolidated balance sheet. Based on our knowledge of the matter, as developed to date, we continue to agree with this estimate of probable total Company liability.

4. BMF Capital v. Prime EFS LLC et al.

In a settlement agreement entered into as of March 6, 2020, the Company's wholly-owned subsidiary Prime EFS agreed to pay BMF Capital (" **BMF**") $275,000 on or by March 11, 2020, *inter alia* to discharge a convertible note, to cancel certain warrants on 40,300 shares of TLSS common stock, and to settle certain claims made by BMF Capital under certain merchant cash advance agreements (MCAs). Prime EFS did not pay a portion of the agreed $275,000 settlement amount by March 11, 2020, but the Company has subsequently paid the $275,000 in full. As more than seven (7) months have now passed, and BMF has not again contacted Prime EFS concerning this matter, Prime EFS believes this matter to now be closed.

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5. Bellridge Capital, L.P. and SCS, LLC v. TLSS

By letter dated April 28, 2020, a prior investor in the Company, Bellridge Capital, L.P. (" **Bellridge**"), claimed that the Company was in breach of its obligations under an August 29, 2019 letter agreement to issue a confession of judgment and to pay Bellridge $150,000 per month against the amounts due under, *inter alia,* an April 2019 promissory note. In the April 28, 2020 letter, Bellridge contended that TLSS owed Bellridge $1,978,557.76 as of that date. In a purported standstill agreement subsequently proposed by Bellridge, Bellridge claimed that TLSS owed it $2,271,099.83, a figure which allegedly included default rate interest. Bellridge also claimed that a subordination agreement it signed with the Company on August 30, 2019 was void *ab initio.* Bellridge also demanded the conversion of approximately $20,000 in indebtedness into Common Stock, a conversion which the Company had not effectuated at the time because the parties had not come to agreement on a conversion price. Such agreement was required for Bellridge to exercise its conversion rights under an agreement dated April 9, 2019 between Bellridge and the Company.

In an agreement dated August 3, 2020, Bellridge and the Company resolved many of the disputes between them. Among other provisions, Bellridge and the Company agreed upon the balance of all indebtedness owed to Bellridge as of August 3, 2020 ($2,150,000), a new maturity date on the indebtedness (April 30, 2021), and a price of $0.02 for the conversion of all Bellridge indebtedness into shares of Company Common Stock. In the agreement, Bellridge also agrees to release its claims against the Company and its senior management in a definitive settlement agreement. However, the August 3 agreement did not contain a release of claims by either party.

On September 11, 2020, a civil action was filed against the Company, John Mercadante and Douglas Cerny in the U.S. District Court for the Southern District of New York, captioned *Bellridge Capital, L.P. v. Transportation and Logistics Systems, Inc., John Mercadante and Douglas Cerny* . The case was assigned Case No. 20-cv-7485. The complaint alleges two separate claims (the first and second claims for relief) for purported violations of section 10(b) of the Securities and Exchange Act of 1934, as amended (the "**Exchange Act**"), and SEC Rule 10b-5 promulgated thereunder, against the Company, Mr. Mercadante and/or Mr. Cerny; a claim (the third claim for relief) purportedly for control person liability under section 20(a) of the Exchange Act against Messrs. Mercadante and Cerny; a claim (the fourth claim for relief) purportedly for fraudulent inducement against the Company; a claim (the fifth claim for relief) against the Company purportedly for breach of an exchange agreement between Bellridge Capital, L.P. ("**Bellridge**") and the Company allegedly dated April 13, 2019 (the " **Purported Exchange Agreement**"); a claim (the sixth claim for relief) against the Company purportedly for specific performance of the Purported Exchange Agreement; a claim against the Company (the seventh claim for relief) for purported nonpayment of a promissory note dated December 26, 2018 pursuant to which the Company borrowed $300,000 and committed to pay Bellridge $330,000 on or by March 15, 2019 plus 10% interest per annum (the "**December 2018 Note**"); a claim (the eighth claim for relief) purportedly for a declaratory judgment that the Company allegedly failed to comply with a condition precedent to the effectiveness of a subordination agreement (the "**Subordination Agreement**") executed and delivered in connection with the Purported Exchange Agreement; and a claim (the ninth claim for relief) for breach of an assignment agreement, executed on or about July 20, 2018 (the "**Partial Assignment Agreement**") in connection with a purchase of 50,000 shares of Company convertible preferred stock, by Bellridge, from a third party.

The damages sought under the first, second and third claims for relief are not specified in the complaint. The fourth claim for relief seeks $128,394 in damages exclusive of interest and costs. The fifth claim for relief seeks $582,847 in damages exclusive of interest and costs. The sixth claim for relief demands that the Company honor allegedly outstanding stock conversions served by Bellridge at a price of $0.00545 per share. The seventh claim for relief seeks $267,970 in damages exclusive of interest and costs. The eighth claim for relief seeks a declaration that the Subordination Agreement is null and void. The ninth claim for relief seeks the difference between the conversion price of the shares at the time of the originally requested conversion and the price on the actual date of conversion, plus liquidated damages of $57,960.

Briefly, the complaint in this action alleges, among other things, that the Company failed to make payments required under two promissory notes, namely the

December 2018 Note and a convertible promissory note issued June 18, 2018 as amended by the Purported Exchange Agreement (the "**June 2018 Note**"). The complaint also alleges that the Company and its senior officer gave false assurances about a potential PIPE transaction in order to induce Bellridge to execute and deliver the Purported Exchange Agreement and the Subordination Agreement. The complaint also alleges that the Company failed to honor certain conversion notices issued by Bellridge and/or failed to negotiate an exercise price in good faith, allegedly as required by the Partial Assignment Agreement and/or the Purported Exchange Agreement. The forgoing discussion does no more than summarize certain of the major allegations of a complaint running 25 pages. Readers wishing additional information should review the complaint and/or discuss same with management. The Company believes it has substantial defenses to some or all claims in the complaint, including without limitation the defense of usury. Both the Company and Mr. Mercadante intend to defend this case vigorously.

On November 6, 2020, TLSI filed an answer in this matter, denying all material allegations of the complaint.

Based on the early stage of this matter, it is not possible to evaluate the likelihood of a favorable or unfavorable outcome, nor is it possible to estimate the amount or range of any potential loss in the matter.

6. SCS, LLC v. Transport and Logistics Systems, Inc.

On May 26, 2020, a civil action was filed against the Company in the Supreme Court of the State of New York, New York County, captioned *SCS, LLC v. Transportation and Logistics Systems, Inc.* The case was assigned Index No. 154433/2020.

The plaintiff in this action, SCS, LLC ("**SCS**") alleges it is a limited liability company that entered into a renewable six-month consulting agreement with the Company dated September 5, 2019 and that the Company failed to make certain monthly payments due thereunder for the months of October 2019 through March 2020, summing to $42,000. The complaint alleges claims for breach of contract, *quantum meruit*, unjust enrichment and account stated.

On July 22, 2020, the Company filed its answer, defenses and counterclaims in this action. Among other allegations, the Company avers in its answer that SCS's claims are barred by its unclean hands and other inequitable conduct, including breach of its duties (i) to maintain the confidentiality of information provided to SCS on a confidential basis and (ii) to work only in furtherance of the Company's interests, not in furtherance of SCS's own, and conflicting, interests. The Company also avers that SCS's alleged damages must be reduced by the compensation and other benefits received by Lawrence Sands, founder of SCS, as a W-2 employee of the Company. The Company also avers that the New York Supreme Court lacks subject matter jurisdiction of the action because SCS concedes it is a Florida LLC based in Florida and that the Company is a Nevada corporation based in Florida.

On July 31, 2020, SCS moved for summary judgment in this action. On August 18, 2020, the Company moved to dismiss this action for lack of subject matter jurisdiction. In its motion, among other arguments, the Company asserted that the New York court lacks subject matter jurisdiction because neither party was formed under New York law; neither party maintains an office in the State of New York; consulting agreement between the parties dated September 5, 2019 was not performed in the State of New York; and the parties anticipated, at the time of contracting, that the bulk of SCS's consulting services thereunder would be rendered in Florida, not New York.

On November 4, 2020, Supreme Court, New York County, heard argument on the Company's motion to dismiss, granted the motion, and denied SCS's motion summary judgment as moot (the "Decision"). SCS has a right to seek reconsideration and/or to take and perfect an appeal from the Decision within time periods prescribed by New York Civil Practice Law and Rules and related court rules.

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7. Shareholder Derivative Action

On June 25, 2020, the Company was served with a putative shareholder derivative action filed in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida (the "**Court**") captioned *SCS, LLC, derivatively on behalf of Transportation and Logistics Systems, Inc. v. John Mercadante, Jr., Douglas Cerny, Sebastian Giordano, Ascentaur LLC and Transportation and Logistics Systems, Inc.* The action has been assigned Case No. 2020-CA-006581.

The plaintiff in this action, SCS, alleges it is a limited liability company formed by a former chief executive officer and director of the Company, Lawrence Sands. The complaint alleges that between April 2019 and June 2020, the current chairman and chief executive officer of the Company, the current chief development officer of the Company and, since February 2020, the Company's restructuring consultant, breached fiduciary duties owed to the Company. The Company's restructuring consultant, defendant Sebastian Giordano, renders his services through another defendant in the action, Ascentaur LLC.

Briefly, the complaint alleges that the Company's chief executive officer breached duties to the Company by, among other actions, requesting, in mid-2019, that certain preferred equity holders, including SCS, convert their preferred shares into Company Common Stock in order to facilitate an equity offering by the Company and then not consummating an equity offering. The complaint also alleges that current management caused the Company to engage in purportedly wasteful and unnecessary transactions such as taking merchant cash advances (MCA) on disadvantageous terms. The complaint further alleges that current management "issued themselves over two million shares of common stock without consideration." The complaint seeks unspecified compensatory and punitive damages on behalf of the Company for breach of fiduciary duty, negligent breach of fiduciary duty, constructive fraud, and civil conspiracy and the appointment of a receiver or custodian for the Company.

The Company's current management has tendered the complaint to its directors' and officers' liability carrier for defense and indemnity purposes, which coverage is subject to a $250,000 self-insured retention or "deductible." Company management, Mr. Giordano and Ascentaur LLC each advises that he or it deny each and every allegation of wrongdoing alleged in the complaint. Among other points, current management asserts that it made every effort to consummate an equity offering in late 2019 and early 2020 and could not do so solely because of the Company's precarious financial condition. Current management also asserts it made clear to SCS and other preferred equity holders, before they converted their shares into Common Stock, that the Company could not guarantee that it would be able to consummate an equity offering in late 2019 or early 2020. In addition, current management asserts that it received equity in the Company on terms that were entirely fair to the Company and entered into MCA transactions solely because no other financing was available to the Company.

On August 5, 2020, all defendants in this action moved to dismiss the complaint for failure to state a claim upon which relief can be granted. Among other allegations, all defendants allege in their motion that, through this lawsuit, SCS is improperly attempting to second-guess business decisions made by the

Company's Board of Directors, based solely on hindsight (as opposed to any well-pleaded facts demonstrating a lack of care or good faith). All defendants also assert that the majority of the claims are governed by Nevada law because they concern the internal affairs of the Company. Defendants further assert that, under Nevada law, each of the business decisions challenged by SCS is protected by the business judgment rule. Defendants further assert that, even if SCS could rebut the presumption that the business judgment rule applies to all such transactions, SCS has failed to allege facts demonstrating that intentional misconduct, fraud, or a knowing violation of the law occurred—a requirement under Nevada law in order for director or officer liability to arise. Defendants further assert that, because SCS's constructive fraud claim simply repackages Plaintiff's claims for breach of fiduciary duty, it too must fail. In the absence of an adequately-alleged independent cause of action—let alone an unlawful agreement between the defendants entered into for the purpose of harming the Company, SCS's claim for civil conspiracy must also be dismissed. Finally, defendants contend that SCS's extraordinary request that a receiver or custodian be appointed to manage and supervise the Company's activities and affairs throughout the duration of this unfounded action is without merit because SCS does not allege the Company is subject to loss so serious and significant that the appointment of a receiver or custodian is "absolutely necessary to do complete justice."

SCS has a right to file court papers opposing the above motion and thereafter the defendants have a right to file reply papers in further support of the motion **(the "MTD")**. To date, the court has not entered an order scheduling these filings or a hearing on the MTD.

In the interim, SCS has propounded certain discovery requests to Mr. Giordano concerning his personal jurisdiction and de facto officer defenses to which Mr. Giordano responded in timely fashion, to the extent required by Florida court rules.

While they hope to prevail on the motion, win or lose, current Company management, Mr. Giordano and Ascentaur LLC advise that they intend to mount a vigorous defense to this action, as they believe the action to be entirely bereft of merit.

It is not possible to evaluate the likelihood of a favorable or unfavorable outcome, nor is it possible to estimate the amount or range of any potential loss in the matter.

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8. Frank Mazzola v. Prime EFS, et al.

On July 24, 2020, Prime EFS terminated the employment of Frank Mazzola effective that day. On July 27, 2020, Mr. Mazzola filed a Complaint and Jury Demand in the United States District Court for the Southern District of New York in which he named as defendants Prime EFS, the Company, John Mercadante and Douglas Cerny. The case was assigned # 1:20-CV-5788-VM. In this action, Mr. Mazzola alleges that he had an employment agreement with Prime EFS and that Prime EFS breached the alleged employment agreement through two alleged pay reductions and by terminating his employment. The Complaint contains eight counts: (1) breach of contract against Prime EFS; (2) breach of the covenant of good faith and fair dealing against Prime EFS; (3) intentional misrepresentation against Prime EFS, the Company and Mr. Mercadante; (4) negligent misrepresentation against Prime EFS, the Company and Mr. Mercadante; (5) tortious interference with contract against the Company, Mr. Mercadante and Mr. Cerny; (6) tortious interference with prospective economic advantage against the Company, Mr. Mercadante and Mr. Cerny; (7) conversion against all defendants; and (8) unjust enrichment against all defendants. Mr. Mazzola seeks specific performance of the alleged employment agreement and damages of not less than $3 million.

Without Answering the Complaint, on August 14, 2020, the defendants objected to the Complaint on the grounds of lack of personal jurisdiction, improper venue and because the Complaint failed to state a claim upon which relief could be granted. On August 25, 2020, the Court ordered Mr. Mazzola to respond to the defendants' objections within three days. On August 28, 2020, Mr. Mazzola voluntarily withdrew the action.

On September 1, 2020, Mr. Mazzola served the defendants with a Complaint and Jury Demand that Mr. Mazzola filed in the Superior Court of New Jersey, Law Division, Bergen County, docket number BER-L-004967-20. The Complaint alleged the same claims as those set forth in the Complaint that Mr. Mazzola had filed in the now withdrawn New York federal lawsuit. On September 28, 2020, the defendants removed the New Jersey state court lawsuit to the United States District Court for the District of New Jersey, which has been assigned civil action number 2:20-cv-13387-BRM-ESK. On October 5, 2020, all defendants filed a motion to dismiss each and every claim asserted against them in the New Jersey federal action.

By letter dated November 18, 2020, Mr. Mazzola, by counsel, sought leave of court to file an amended complaint in this matter. On November 25, 2020, the Court granted plaintiff leave to file an amended complaint on or by December 7, 2020, and granted defendants an extension to January 11, 2021 to file an answer or to move against the amended complaint.

The proposed amended complaint, as currently lodged with the Court, alleges three (3) claims for relief: one for Breach of Contract against Prime EFS; one for "Piercing the Corporate Veil" against the Company; and one for "Fraudulent Inducement" against Messrs. Mercadante and Cerny.

The damages sought by each claim are identical: "approximately $2,000,000, representing $1,040,000 in [alleged] severance"; $759,038.41 in alleged "accrued but unpaid salary"; and non-cash benefits under the alleged executive employment agreement.

Owing to the early stage of this matter, it is not possible to evaluate the likelihood of a favorable or unfavorable outcome, nor is it possible to estimate the amount or range of any potential loss in the matter.

9. Rosemary Mazzola v. TLSS and Douglas Cerny

On September 19, 2020, attorneys for Frank Mazzola's mother, Rosemary Mazzola, filed an action in the U.S. District Court for the Southern District of New York against the Company and Douglas Cerny. The case was assigned docket number 1:20-cv-7582 and assigned to USDJ Gregory H. Woods. In this action, Ms. Mazzola claims that the Company entered into and breached an unspecified contract by failing to pay her $94,000. In addition, the complaint claims that, although he was not a party to the unspecified contract, Mr. Cerny falsely represented that the Company intended to "repay" Ms. Mazzola $94,000 plus interest. The complaint seeks $94,000 from each defendant, plus late fees, costs, prejudgment interest and attorneys' fees and, from Mr. Cerny, punitive damages in an unspecified amount. The complaint also alleges claims for account stated and breach of implied warranty of good faith and fair dealing, allegedly premised on the same indebtedness.

On October 26, 2020, in lieu of filing an answer, all defendants, by counsel, submitted timely a letter motion (**the "Oct. 26 Letter Motion"**) for leave to file a motion to dismiss the complaint, which filing pointed out numerous alleged deficiencies with the complaint. Among other things, in the Oct. 26 Letter Motion, defendants pointed out (a) that Mr. Cerny is not a proper defendant and that, in any event, the Court lacks personal jurisdiction over him; (b) that the only

conceivable contract on which the complaint could be based is the Amended and Restated Stock Purchase Agreement, dated September 30, 2018, pursuant to which Mrs. Mazzola and others sold their membership interests in Prime EFS to the Company; (c) that pursuant to that contract, "[i]n lieu of the receipt of cash by Rosemary Mazzola at Closing, Rosemary Mazzola has agreed to loan such cash amount [$489,174] to the Company" — defined to be Prime EFS, not the Company; and (d) therefore, that the only entity with an obligation to pay any amounts allegedly due to Mrs. Mazzola under the 2018 agreement is Prime EFS, not the Company.

In addition, in the Oct. 26 Letter Motion, defendants assert that, at least at this juncture, a claim against Prime EFS under the 2018 agreement would be improper. As noted above, in the 2018 agreement, it is merely agreed that, "[i]n lieu of the receipt of cash by Rosemary Mazzola at Closing, Rosemary Mazzola has agreed to loan such cash amount to the Company [Prime EFS] to be used for working capital." No terms and conditions of the loan were specified. Hence, defendants assert, a suit against Prime EFS on the loan today would be at least premature.

By order entered November 5, 2020, the Court gave new counsel for Mrs. Mazzola, the 80-year-old mother of Frank Mazzola, until November 23, 2020, to file an amended complaint in this action and, if warranted by the amended complaint, gave defendants until December 7, 2020 to file a renewed letter motion to dismiss this lawsuit.

On November 23, 2020, counsel for Ms. Mazzola filed an Amended Complaint in this action, dropping Mr. Cerny and adding Prime EFS, LLC as a party. The new pleading demands $209,000 rather than the $94,000 in damages previously alleged. The new complaint alleges three claims: breach of contract against Prime EFS, alter ego liability against the company, and unjust enrichment against both the Company and Prime EFS. Ms. Mazzola also demands legal fees and expenses under a prevailing-party provision in the Amended Stock Purchase Agreement.

As of September 30, 2020, a $94,000 liability is included in due to related parties on the Company's condensed consolidated balance sheet as of such date.

Owing to the early stage of this matter, it is not possible for us to evaluate the likelihood of a favorable or unfavorable outcome, nor is it possible to estimate the amount or range of any potential loss in the matter.

10. Prime EFS v. Amazon Logistics, Inc.

On June 19, 2020, Amazon Logistics, Inc. ("**Amazon**") notified Prime EFS that Amazon did not intend to renew the Delivery Service Partner Program Agreement between Prime EFS and Amazon when it expired. In the Prime EFS Termination Notice, Amazon stated that the Delivery Service Partner Program Agreement between Prime EFS and Amazon expired on September 30, 2020. Prime EFS believed on advice of counsel that Amazon's position misconstrued the expiration date under the Delivery Service Partner Program Agreement between Prime EFS and Amazon. Prime EFS therefore filed an arbitration at the American Arbitration Association (the "**AAA**") seeking temporary, preliminary, and permanent injunctive relief prohibiting Amazon from terminating the Delivery Service Partner Program Agreement between Prime EFS and Amazon prior to March 31, 2021 (the "**Amazon Arbitration**").

In a ruling issued July 30, 2020, the arbitrator appointed by the AAA on an emergency basis affirmed the validity of Amazon's construction of the Delivery Service Partner Program Agreement between Prime EFS and Amazon and notice terminating that agreement effective September 30, 2020. The Company concluded, on advice of counsel, that no court would suspend, vacate or modify the July 30, 2020, ruling.

On July 17, 2020, Amazon notified Shypdirect by the Shypdirect Termination Notice that Amazon had elected to terminate the Program Agreement between Amazon and Shypdirect effective as of November 14, 2020.

Amazon did not state a reason for the Shypdirect Termination Notice. Under the Program Agreement, Amazon can terminate the agreement without a reason and solely for convenience on 120 days' notice.

In a "Separation Agreement" dated August 23, 2020, by and among Amazon, Prime EFS and the Company, Prime EFS and the Company agreed, for nominal consideration, that the Delivery Service Partner Program Agreement between Amazon and Prime EFS would terminate effective September 30, 2020; that Prime EFS and the Company would cooperate in an orderly transition of the last-mile delivery business from Prime EFS to other service providers; that Prime EFS would return any and all vehicles leased from Element Fleet Corporation by October 7, 2020 in good repair; and that Prime EFS would dismiss the Amazon Arbitration with prejudice. Under the same Separation Agreement, Prime EFS and the Company released any and all claims they had against Amazon and promised not to sue Amazon. In a "Settlement and Release Agreement" dated August 21, 2020, by and among Amazon, Shypdirect, Prime EFS and the Company, Amazon withdrew the Shypdirect Termination Notice and extended the term of the Program Agreement to and including May 14, 2021. In the Settlement and Release Agreement, Shypdirect released any and all claims it had against Amazon, arising under the Program Agreement between Amazon and Shypdirect effective as of November 14, 2020, or otherwise.

11. Jose R. Mercedes-Mejia v. Shypdirect LLC, Prime EFS LLC et al.

On August 4, 2020, an action was filed against Shypdirect, Prime EFS and others in the Superior Court of New Jersey for Bergen County captioned *Jose R. Mercedes-Mejia v. Shypdirect LLC, Prime EFS LLC et al*. The case was assigned docket number BER-L-004534-20. In this action, the plaintiff seeks reimbursement of his medical expenses and damages for personal injuries following an accident with a box truck leased by Prime EFS and being driven by a Prime EFS employee, in which the plaintiff's ankle was injured. Plaintiff has thus far transmitted medical bills exceeding $789,000. Prime EFS and Shypdirect have demanded their vehicle liability carrier assume the defense of this action. To date, the carrier has not done so, allegedly *inter alia* because the box truck was not on the list of insured vehicles at the time of the accident.

On November 9, 2020, Prime EFS and Shypdirect filed their answer to the complaint in this action and also filed a third-party action against the insurance company in an effort to obtain defense and indemnity for this action. We intend to vigorously defend against this claim and to pursue the coverage action. However, we cannot evaluate the likelihood of an adverse outcome or estimate our liability, if any, in connection with this claim.

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12. Valesky v. Prime EFS and Frank Mazzola

Plaintiff, an ex-dispatcher for Prime EFS, brought this action in the U.S. District Court for the District of New Jersey under the Family and Medical Leave Act of 1993 and the New Jersey Law Against Discrimination seeking unspecified compensatory and punitive damages. Plaintiff alleges he was fired while still in a neck brace. Prime EFS's insurer has acknowledged its duty to defend this matter, and the Company and Prime EFS expect that the insurer will ultimately indemnify Prime EFS for any damages paid.

13. Ynes Accilien v. Prime EFS

This action was brought on April 27, 2020 in the Superior Court of New Jersey for Bergen County by the plaintiff alleging injuries from a May 12, 2019 collision with a van leased by Prime EFS and operated by Prime EFS employees. The plaintiff has also filed a workers' compensation claim. Prime EFS's insurer has acknowledged its duty to defend this matter, and the Company and Prime EFS expect that the insurer will ultimately indemnify Prime EFS for any damages paid.

14. The matters described on Schedule 3.1(b) could result in an Action being filed against the Company or its Subsidiaries in the future.

15. The matters described in Items 1, 2, 3, 4, 5, 9 and 10 of Schedule 3.1(l) could result in an Action being filed against the Company or its Subsidiaries in the future.

16. The matters described on Schedule 3.1(v) could result in an Action being filed against the Company in the future.

SCHEDULE 3.1(l)

Compliance

1. On October 3, 2019, the Company issued and sold to an investor a convertible promissory note in the principal amount of $166,667 (the " **October 3 Note**"), and warrants to purchase up to 66,401 shares of the Company's common stock (the "**October 3 Warrant**"). The Company is in default under the October 3 Note.

2. On October 14, 2019 and November 7, 2019, we entered into convertible note agreements with an accredited investor. Pursuant to the terms of these convertible note agreements, we issued and sold to an investor convertible promissory notes in the aggregate principal amount of $500,000 (the "**Fall 2019 Notes**") and we received cash proceeds of $500,000. The Company is in default under the Fall 2019 Notes.

3. During the six months ended June 30, 2020, the Company issued and sold to investors convertible promissory notes in the aggregate principal amount of $2,068,000 (the "**Q1/Q2 2020 Notes**"), and warrants to purchase up to 827,200 shares of the Company's common stock (the "**Q1/Q2 2020 Warrants**"). The Company is in default under the Q1/Q2 2020 Notes.

4. On April 20, 2020, the Company issued and sold to an investor a convertible promissory note in the principal amount of $456,500 (the " **April 20 Note**"). The Company is in default under the April 20 Note.

5. Prime EFS failed to make two payments each of $15,000 due on September 25, 2020 and October 2, 2020 pursuant to a Confidential Settlement Agreement and Limited Release with a former insurer dated June 4, 2020.

6. The disclosure set forth on Schedule 3.1(j) is in incorporated by reference herein.

7. The disclosure set forth on Schedule 3.1(b) is incorporated by reference herein.

8. The disclosure set forth on Schedule 3.1(v) is incorporated by reference herein.

9. The occurrences set forth in the disclosure on Schedule 3.1(b) constituted an event of default pursuant to the promissory note dated as of April 16, 2020, by and between M&T Bank and Prime EFS with respect to the loan received by Prime EFS under the Small Business Administration Paycheck Protection Program of the Coronavirus Aid, Relief and Economic Security Act of 2020. Prime EFS has not notified M&T Bank of this potential default and such failure to notify is a separate event of default. In January 2021 PrimeEFS will be filing its application for forgiveness of the loan under the Coronavirus Aid, Relief and Economic Security Act of 2020.

10. The occurrences set forth in the disclosure on Schedule 3.1(b) constituted an event of default pursuant to the promissory note dated as of April 28, 2020, by and between M&T Bank and Shypdirect with respect to the loan received by Shypdirect under the Small Business Administration Paycheck Protection Program ("PPP") of the Coronavirus Aid, Relief and Economic Security Act of 2020. Shypdirect has not notified M&T Bank of this potential default and such failure to notify is a separate event of default. Shypdirect has filed its application for forgiveness of the loan under the PPP.

SCHEDULE 3.1(o)

Title to Assets

1. The disclosure set forth on Schedule 3.1(b) is incorporated by reference herein. To the extent there are unpaid federal, state or other corporate or entity level taxes, such unpaid taxes may be secured by Liens against the assets of the Company and its subsidiaries.

2. The table below summarizes outstanding UCC liens:

DEBTOR NAME: Transportation and Logistics Systems, Inc.

Jurisdiction	Type of Search	Filing Number and Date	Secured Party	Results

Florida	UCC lien	202000969613	Corporation Service Company, as Representative	Collateral: All Assets now owned or hereafter acquired and wherever located, including but not limited to, the following subcategories of assets: a. Accounts, including but not limited to, credit card receivables; b. Chattel Paper; c. Inventory; d. Equipment; e. Instruments, including but not limited to, Promissory Notes; f. Investment Property; g. Documents; h. Deposit Accounts; i. Letter of Credit Rights; j. General Intangibles; k. Supporting Obligations; and I. Proceeds and Products of the foregoing.
Nevada	UCC lien	2019036682-9(1) 09/06/2019 2019044257-1(1) 10/24/2019	CAVALRY FUND I LP, A DELAWARE LIMITED PARTNERSHIP, AS COLLATERAL AGENT	Collateral: All of Debtor's assets.
Nevada	UCC lien	2019057092-1 12/9/2019 2019061316-1 12/24/2019 (Amend Collateral) 2020062423-5 12/30/2019 (Amend Collateral) 2020062424-2 (Assignment)	GREAT ATLANTIC FINANCE CORPORATION **Assigned to** PEOPLE'S CAPITAL AND LEASING CORP.	One (1) 2019 International MV607 Vin #1HTEUMML9KH650491 One (1) 2019 International MV607 Vin #1HTEUMML1KH154875 One (1) 2019 International MV607 Vin #1HTEUMML4KH144454 One (1) 2020 International MV607 Vin #1HTEUMML3LH806946 One (1) 2020 International MV607 Vin #3HAEUMML8LL249235

DEBTOR NAME: Prime EFS LLC

Jurisdiction	Type of Search	Filing Number and Date	Secured Party	Results
New Jersey	UCC lien	52846212(2) 06/19/2018	Bellridge Capital, L.L.C.	Collateral: Substantially all of the assets of the Debtor.
New Jersey	UCC lien	53575601 09/03/2019	John Duffy Energy Services	Collateral: John Duffy Fuel Company Truck 6 1994 Mack VIN VG6M11663RB300901 with Filrite pump and meter
Nevada	UCC lien	2019036682-9(1) 09/06/2019 2019044257-1(1) 10/24/2019	CAVALRY FUND I LP, A DELAWARE LIMITED PARTNERSHIP, AS COLLATERAL AGENT	Collateral: All of Debtor's assets.

DEBTOR NAME: Shypdirect LLC

Jurisdiction	Type of Search	Filing Number and Date	Secured Party	Results
Nevada	UCC lien	2019036682-9(1) 09/06/2019 2019044257-1(1) 10/24/2019	CAVALRY FUND I LP, A DELAWARE LIMITED PARTNERSHIP, AS COLLATERAL AGENT	Collateral: All of Debtor's assets.

(1) The Company and its Subsidiaries believe the obligations secured by this lien have been fully satisfied.
(2) The Company and Shypdirect have granted similar security interests over substantially all of their assets to secure the obligations owed to Bellridge Capital, LLC, however corresponding UCC filings were not located by the Company's lien searches.

SCHEDULE 3.1(p)

Intellectual Property

None.

SCHEDULE 3.1(s)

Sarbanes-Oxley; Internal Accounting Controls

Under the supervision and with the participation of our management, including John Mercadante, Jr, our Chief Executive Officer and Principal Accounting Officer, the Company carried out an evaluation of the effectiveness of the design and operation of the Company's disclosure controls and procedures (as defined in Exchange Act Rule 13a-15(e)) as of June 30, 2020. Management recognizes that any disclosure controls and procedures no matter how well designed and operated, can only provide reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

The Company's management has assessed the effectiveness of its disclosure controls and procedures and based upon that evaluation, management concluded that its disclosure controls and procedures were not effective as of June 30, 2020.

As reported in Item 9A of the Company's Annual Report on Form 10-K for the year ended December 31, 2019, the Company's management concluded that our internal control over financial reporting was not effective as of that date because of material weaknesses in its internal controls over financial reporting. The ineffectiveness of its disclosure controls and procedures was due to the following material weaknesses in the Company's internal control over financial reporting:

1) Lack of a functioning audit committee due to a lack of a majority of independent members and a lack of a majority of outside directors on our board of directors, resulting in ineffective oversight in the establishment and monitoring of required internal controls and procedures;

2) The Company lacks segregation of duties;

3) There is a lack of segregation of duties and monitoring controls regarding accounting because there are a limited staff of accountants maintaining the books and records;

4) The Company's Chief Executive Officer does not have significant financial experience resulting in the Company's use of outside consultants to assist in financial and public company expertise;

5) The Company does not have adequate controls over pre-closing legal and accounting review of loan transactions;

6) The Company did not have adequate controls over accounting systems that would prohibit unauthorized changes to historical accounting records. Recently, the Company implemented controls to address this situation;

7) The Company lacks supervision of outside consultants who may negotiate transactions on behalf of the Company;

8) The Company has not yet implemented any internal controls over financial reporting at its recently acquired subsidiary; and

9) The Company lacks control over who is granted authorization to bind the Company or its subsidiaries to legal contracts.

The Company does not believe the material weaknesses described above caused any meaningful or significant misreporting of its consolidated financial condition and results of operations for the quarter ended June 30, 2020. However, management believes that the lack of a functioning audit committee and the lack of a majority of outside directors on its board of directors' results in ineffective oversight in the establishment and monitoring of required internal controls and procedures, which could result in a material misstatement in the Company's consolidated financial statements in future periods.

SCHEDULE 3.1(t)

Certain Fees

The Company shall pay the fees owed to Garden State Securities, Inc. equal to ten percent (10.0%) of the capital raised in this Series E offering and warrants to purchase shares equal to ten percent (10.0%) of the amount of securities sold (on an as converted basis).

SCHEDULE 3.1(v)

Registration Rights

1. On August 30, 2019, the Company entered into a securities purchase agreement with the investor parties thereto (collectively, the " **August 2019 Equity Investors**"), pursuant to which the August 2019 Equity Investors agreed to purchase, severally and not jointly, approximately $1,067,500 worth of units of the Company, each unit comprised of one (1) share of Common Stock, and a warrant to purchase one (1) share of Common Stock (the "**August 2019 Equity Offering**"). In connection with the August 2019 Equity Offering, the Company entered into a registration rights agreement, pursuant to which the Company agreed to file a registration statement on Form S-1 to register the resale of the shares issuable to the August 2019 Equity Investors in the August 2019 Equity Offering. The Company filed this registration statement and it was declared effective on November 8, 2019. On August 8, 2020, due to the passage of time, the information and financial statements in such registration statement became too far out of date to allow the registration statement and prospectus contained therein to be used to resale the common stock issued or issuable upon exercise of the warrants issued in the August 2019 Equity Offering in compliance with the Securities Act. The Company has not filed a post-effective amendment to bring the registration statement and prospectus up-to-date.

2. The Company owes RedDiamond Partners LLC ("**RedDiamond**") approximately $59,000 in principal and accrued interest pursuant to certain convertible promissory notes issued in 2017. Pursuant to the purchase agreement for these promissory notes, while any of the promissory notes remain outstanding, the Company is obligated to file and use its best efforts to keep effective a registration statement covering the resale of the common stock into which the promissory notes are convertible. The Company filed a registration statement for such purpose on July 26, 2017, however it withdrew such registration on October 10, 2018 before it became effective. On April 9, 2019, RedDiamond waived all prior or existing events of default. The Company did not file a registration statement covering such shares after April 9, 2019. Except for obligations arising prior to April 25, 2017, the Company is restricted from filing any other registration statement while any of the promissory notes remain outstanding. The Company filed the registration statement declared effective on November 8, 2019 notwithstanding this provision.

SCHEDULE 3.1(y)

Disclosure

1. The information disclosed on Schedule 3.1(b) has not been disclosed in the SEC Reports, but such information will be disclosed on Form 8-K simultaneously with the disclosure of the Initial Closing.

2. The information disclosed in Items 5, 9 and 10 of Schedule 3.1(l) has not been disclosed in the SEC Reports, but such information will be disclosed on Form 8-K simultaneously with the disclosure of the Initial Closing.

3. The information disclosed on Schedule 3.1(v) has not been disclosed in the SEC Reports, but such information will be disclosed on Form 8-K simultaneously with the disclosure of the Initial Closing.

4. Certain of the information disclosed in Item 2 of Schedule 3.1(aa) has not been disclosed in the SEC Reports, but such information will be disclosed on Form 8-K simultaneously with the disclosure of the Initial Closing.

5. On August 7, 2020, the Company filed a Current Report on Form 8-K indicating that the Company had agreed to a settlement with Bellridge regarding the parties' dispute as to obligations allegedly owed by the Company to Bellridge under an August 29, 2019 letter agreement by entering into a Settlement Proposal Outline, dated as of August 3, 2020 (the "**Settlement Proposal Outline**"). As subsequently disclosed in the Company's Quarterly Report for the quarter ended June 30, 2020, although Bellridge agreed in the Settlement Proposal Outline to release its claims against the Company and its senior management in a definitive settlement agreement, the Settlement Proposal Outline did not contain releases.

6. On July 23, 2020, the Company filed a Current Report on Form 8-K stating that approximately 6.6% of the Company's approximately $31.5 million of revenue reported in its Form 10-K Annual Report for the calendar year ended December 31, 2019, and approximately 34.7% of the Company's approximately $8.6 million of revenue reported in its Form 10-Q Quarterly Report for the three months ended March 31, 2020, was attributable to Shypdirect's mid-mile and long-haul business with Amazon Logistics, Inc. These percentages understated the portion of the Company's revenue in the referenced periods attributable to Shypdirect's mid-mile and long-haul business with Amazon Logistics, Inc. In a subsequent Current Report on Form 8-K filed on August 5, 2020, the Company provided corrected information stating that approximately 30.9% of the Company's approximately $31.5 million of revenue reported in its Form 10-K Annual Report for the calendar year ended December 31, 2019, and approximately 41.2% of the Company's approximately $8.6 million of revenue reported in its Form 10-Q Quarterly Report for the three months ended March 31, 2020, was attributable to Shypdirect's mid-mile and long-haul business with Amazon.

SCHEDULE 3.1(aa)

Indebtedness

1. The disclosure set forth in Item 5 of Schedule 3.1(g) is incorporated by reference herein.

2. On July 17, 2020, Amazon notified Shypdirect that Amazon had elected to terminate the Amazon Relay Carrier Terms of Service (the " **Program Agreement**") between Amazon and Shypdirect effective as of November 14, 2020 (the " **Shypdirect Termination Notice**"). However, on August 3, 2020, Amazon offered to withdraw the ShypDirect Termination Notice and extend the term of the Program Agreement to and including May 14, 2021, conditioned on Prime EFS executing, for nominal consideration, a separation agreement with Amazon under which Prime EFS agreed to cooperate in an orderly transition of its Amazon last-mile delivery business to other service providers, Prime EFS releases any and all claims it may have against Amazon, and Prime EFS covenants not to sue Amazon. In a "Settlement and Release Agreement" dated August 21, 2020, by and among Amazon, Shypdirect, Prime EFS and the Company, Amazon withdrew the Shypdirect Termination Notice and extended the term of the Program Agreement to and including May 14, 2021. If, after May 14, 2021, Amazon elects to discontinue its business with Shypdirect, after May 14, 2021, the Company and Prime EFS will evaluate their strategic options, including, potentially, voluntary bankruptcy.

3. The Notes Payable of the Company, Prime EFS and Shypdirect as of September 30, 2020:

NOTES PAYABLE						
Westmount	$	500,000.00	$	151,006.85	$	651,006.85
People's Capital - Truck loan (GAFC)	$	402,375.03		-	$	402,375.03
Total notes payable	**$**	**902,375.03**	**$**	**151,006.85**	**$**	**1,053,381.88**
Prime EFS LLC						
Rosemary Mazzola	$	94,000.00		-	$	94,000.00
COR Holdings	$	80,490.06	$	25,627.24	$	106,117.30
Patrick Nicholson	$	220,000.00	$	36,678.36	$	256,678.36
Vero Enterprise Holdings LLC	$	40,000.00		-	$	40,000.00
Paycheck Protection Program	$	2,941,212.50	$	13,537.64	$	2,954,750.14
Capital Leases	$	46,849.36		-	$	46,849.36
Auto Loans	$	159,531.71		-	$	159,531.71
Total	**$**	**3,582,083.63**	**$**	**75,843.24**	**$**	**3,657,926.87**
Shypdirect LLC						
Paycheck Protection Program	$	504,940.00	$	2,102.76	$	507,042.76
Total	**$**	**504,940.00**	**$**	**2,102.76**	**$**	**507,042.76**

SCHEDULE 3.1(bb)

Tax Status

1. The disclosure set forth on Schedule 3.1(b) is incorporated by reference herein. The Company and its Subsidiaries expect that any taxes that have not been paid will be immaterial in amount. As the Company is still investigating the matter described in Item 1 of Schedule 3.1(b), it is unable to quantify the amount that remains due or confirm that it has made appropriate provisions on its books for the payment of all material taxes for subsequent periods, however, the Company expects any such taxes to be immaterial in amount.

SCHEDULE 3.1(gg)

Regulation M Compliance

1. The Company entered into a leak-out agreement with Cavalry, dated as of July 20, 2020 (the " **Cavalry Leak-Out Agreement**"), whereby Cavalry agreed that, until the earliest to occur of (a) 120 days from July 20, 2020, (b) the common stock trading at an average reported volume of at least 100,000,001 shares for three consecutive trading days, (c) the price per share of the common stock exceeding $0.10 in a transaction, (d) the time of release (whether by termination of an applicable leak-out agreement or otherwise), in whole or in part, of any leak-out agreement with any other holder of securities, or (e) any breach by the Company of any term of the Cavalry Leak-Out Agreement that is not cured within five trading days following delivery of written notice of such breach by Cavalry to the Company, neither Cavalry, nor any of its Affiliates (as defined in the Cavalry Leak-Out Agreement), collectively, shall sell, on any trading day, more than 10% of the common stock sold on such trading day.

2. The Company entered into a leak-out agreement with Puritan dated as of July 22, 2020 (the " **Puritan Leak-Out Agreement**"), whereby Puritan agreed that, until the earliest to occur of (a) 120 days from July 22, 2020, (b) the common stock trading at an average reported volume of at least 100,000,001 shares for three consecutive trading days, (c) the price per share of the common stock exceeding $0.10 in a transaction, (d) the time of release (whether by termination of an applicable leak-out agreement or otherwise), in whole or in part, of any leak-out agreement with any other holder of securities, or (e) any breach by the Company of any term of the Puritan Leak-Out Agreement that is not cured within five trading days following delivery of written notice of such breach by Puritan to the Company, neither Puritan, nor any of its Affiliates (as defined in the Puritan Leak-Out Agreement), collectively, shall sell, on any trading day, more than 10% of the common stock sold on such trading day.