

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

FORM 8-K

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

Date of Report (Date of earliest event reported): September 2, 2011

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

Delaware
(State or other jurisdiction of
incorporation or organization)

001-32172
(Commission File Number)

03-0450326
(I.R.S. Employer
Identification No.)

429 Post Road, Buchanan, Michigan 49107
(Address of principal executive offices)

(269) 429-9761
(Registrant's telephone number, including area code)

Express-1 Expedited Solutions, Inc.
3399 South Lakeshore Drive, Suite 225, Saint Joseph, Michigan 49085
(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 of 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)).

Item 1.01. Entry Into a Material Definitive Agreement.

The information described under “Registration Rights Agreement” in Item 3.02 below is incorporated herein by reference.

Item 3.02. Unregistered Sales of Equity Securities.

On September 2, 2011, pursuant to the Investment Agreement, dated as of June 13, 2011 (the “Investment Agreement”), by and among Jacobs Private Equity, LLC (“JPE”), the other investors party thereto (including by joinders thereto) (collectively with JPE, the “Investors”) and XPO Logistics, Inc. (formerly Express-1 Expedited Solutions, Inc.), a Delaware corporation (the “Company”), the Company issued to the Investors, for \$75,000,000 in cash: (i) an aggregate of 75,000 shares of Series A Convertible Perpetual Preferred Stock of the Company, par value \$0.001 per share (the “Preferred Stock”), which are initially convertible into an aggregate of 10,714,286 shares of Company common stock, and (ii) warrants initially exercisable for an aggregate of 10,714,286 shares of Company common stock at an initial exercise price of \$7.00 per share (the “Warrants”, and together with the Preferred Stock, the “Securities”). We refer to this investment as the “Equity Investment.”

The Preferred Stock

The Preferred Stock has an initial liquidation preference of \$1,000 per share, for an aggregate initial liquidation preference of \$75,000,000. The Preferred Stock is convertible at any time, in whole or in part and from time to time, at the option of the holder thereof into a number of shares of Company common stock equal to the then-applicable liquidation preference divided by the conversion price, which initially is \$7.00 per share of Company common stock (subject to customary anti-dilution adjustments), for an effective initial aggregate conversion rate of 10,714,286 shares of Company common stock. The Preferred Stock will pay quarterly cash dividends equal to the greater of (i) the “as-converted” dividends on the underlying Company common stock for the relevant quarter and (ii) 4% of the then-applicable liquidation preference per annum. Accrued and unpaid dividends for any quarter will accrete to liquidation preference for all purposes. The Preferred Stock is not redeemable or subject to any required offer to purchase, and votes together with the Company common stock on an “as-converted” basis on all matters, except as otherwise required by law, and separately as a class with respect to certain matters implicating the rights of holders of shares of Preferred Stock.

The description of the Preferred Stock is qualified in its entirety by reference to the Certificate of Designation of Series A Convertible Perpetual Preferred Stock, a copy of which is attached hereto as Exhibit 4.1 and is incorporated by reference herein.

The Warrants

Each Warrant will initially be exercisable at any time and from time to time from the closing date until September 2, 2021, at the option of the holder thereof, into one share of Company common stock at an initial exercise price of \$7.00 in cash per share of Company common stock (subject to customary anti-dilution adjustments). The initial aggregate number shares of Company common stock subject to Warrants is 10,714,286 shares.

The description of the Warrants is qualified in its entirety by reference to the Form of Warrant Certificate, a copy of which is attached hereto as Exhibit 4.2 and is incorporated by reference herein.

The Securities described above were sold to the Investors in a transaction exempt from the registration requirements of the Securities Act of 1933, as amended (the “Securities Act”), pursuant to Section 4(2) thereof, as an offering not involving any public offering.

Registration Rights Agreement

At the closing of the Equity Investment on September 2, 2011, the Company entered into a Registration Rights Agreement (the “Registration Rights Agreement”) with the Investors party thereto, which provides the holders from time to time of the Securities with certain rights to cause the Company to register the sale of shares of

Preferred Stock, Warrants and shares of Company common stock issued or issuable upon conversion of the Preferred Stock or upon exercise of the Warrants, in each case other than any such securities that are then freely transferable without registration pursuant to Rule 144 under the Securities Act without limitation as to volume, manner of sale or other restrictions under Rule 144. We refer to the securities that are subject to registration under the Registration Rights Agreement as provided above as “Registrable Securities.”

At any time on or after the closing of the Equity Investment, holders of Registrable Securities representing no less than a majority of the Company common stock constituting Registrable Securities or issuable upon conversion of Preferred Stock or exercise of Warrants constituting Registrable Securities may request registration of the sale of such securities by giving the Company written notice thereof. Such majority holders may request a total of three demand registrations.

If the Company registers its securities on a registration statement that permits the inclusion of the Registrable Securities, the Company must give JPE prompt written notice thereof (subject to certain exceptions). The Company must then include on such registration statement all Registrable Securities requested to be included therein (subject to certain exceptions).

Subject to certain exceptions, all expenses incurred in connection with the registration or sale of the Registrable Securities will be borne by the Company.

The description of the Registration Rights Agreement is qualified in its entirety by reference to the Registration Rights Agreement, a copy of which is attached hereto as Exhibit 4.3 and is incorporated by reference herein.

Item 3.03. Material Modifications to Rights of Security Holders.

The information described under Item 5.03 below is incorporated herein by reference.

Item 5.01. Changes in Control of Registrant.

On September 2, 2011, as part of the Equity Investment described in Item 3.02 above, the Company issued to JPE, for \$67,500,000 in cash, (i) 67,500 shares of Preferred Stock, which are initially convertible into an aggregate of 9,642,857 shares of Company common stock, and (ii) 9,642,857 Warrants initially exercisable for an aggregate of 9,642,857 shares of Company common stock at an exercise price of \$7.00 per share, which resulted in a change of control of the Company. As of August 31, 2011, the day before the special meeting of the stockholders of the Company to vote on the Equity Investment and the other transactions contemplated by the Investment Agreement, there were 33,011,561 shares of Company common stock outstanding, plus outstanding options to purchase an additional 3,267,750 shares of Company common stock. Based upon the number of shares of Company common stock outstanding as of August 31, 2011, as adjusted for a 4-for-1 reverse stock split effected on September 2, 2011 (resulting in a total of 8,252,890 shares of Company common stock outstanding), JPE has acquired in the aggregate approximately 50.8% of the total voting power of the Company’s capital stock before giving effect to the exercise of any Warrants, and approximately 65.0% of the total voting power of the Company’s capital stock after giving effect to the exercise of all of the Warrants.

Pursuant to the Investment Agreement, JPE will be entitled to nominate for election to the Board of Directors of the Company (the “Board”) in connection with each meeting of stockholders at which directors are to be elected (i) a majority of the directors on the Board, for so long as JPE controls at least 33% of the total voting power of the capital stock of the Company on a fully-diluted basis or (ii) 25% of the directors on the Board, for so long as JPE controls at least 20% (but less than 33%) of the total voting power of the capital stock of the Company on a fully-diluted basis.

The information described under Item 5.02 below is incorporated by reference herein.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

On September 2, 2011, Mr. Jacobs was appointed as the Chief Executive Officer of the Company. Biographical information with respect to Mr. Jacobs is included below.

On September 2, 2011, the Compensation Committee of the Board determined that, until the date on which Mr. Jacobs enters into an employment agreement with the Company, Mr. Jacobs will be paid a base salary at an annual rate of \$495,000 in connection with his service as Chief Executive Officer of the Company and will be entitled to participate in benefit programs offered to senior executives of the Company.

Departure of Directors

Effective as of the closing of the Equity Investment on September 2, 2011, in accordance with the terms of the Investment Agreement, John F. Affleck-Graves, Jennifer H. Dorris, Daniel Para, Jay N. Taylor, Michael R. Welch and Calvin Whitehead resigned from the Board.

Increase in Size of the Board; Appointment of New Directors

In accordance with the terms of the Investment Agreement, effective upon the closing of the Equity Investment on September 2, 2011, the size of the Board was increased from seven to eight members and the additional director resulting from such increase was designated as a Class III director of the Company.

In accordance with the terms of the Investment Agreement, JPE has the right to designate seven of the eight directors on the Board following the closing of the Equity Investment. Accordingly, the Board appointed each of the following JPE designees as directors of the Company, to the class and for the term listed below, effective immediately following the closing of the Equity Investment on September 2, 2011:

Director	Class	Term
Bradley S. Jacobs Michael G. Jesselson Adrian P. Kingshott	Class I	Until 2014 Annual Meeting
G. Chris Andersen Oren G. Shaffer	Class III	Until 2013 Annual Meeting
Jason D. Papastavrou	Class II	Until 2012 Annual Meeting

In accordance with the terms of the Investment Agreement, Mr. Jacobs was elected as the Chairman of the Board on September 2, 2011.

James J. Martell will remain as a Class II director of the Company but will no longer serve as the Chairman of the Board. One vacancy on the Board will exist until such vacancy is filled by the Board pursuant to designation by JPE in accordance with the terms of the Investment Agreement.

The following biographical information is provided for the newly appointed members of the Board:

Bradley S. Jacobs

Bradley Jacobs, 55, is the managing director of JPE. He has led two public companies: United Rentals, Inc. (NYSE: URI), which he co-founded in 1997, and United Waste Systems, Inc., founded in 1989. Mr. Jacobs served

as Chairman and Chief Executive Officer of United Rentals for the company's first six years, and as Executive Chairman for an additional four years. He served eight years as Chairman and Chief Executive Officer of United Waste Systems. Previously, Mr. Jacobs founded Hamilton Resources (UK) Ltd. and served as its Chairman and Chief Operating Officer. This followed the co-founding of his first venture, Amerex Oil Associates, Inc., where he was chief executive. Mr. Jacobs is a member of the board of directors of the Beck Institute for Cognitive Behavior Therapy.

G. Chris Andersen

G. Chris Andersen, 73, is the founder and a managing partner of G.C. Andersen Partners, LLC. Previously, Mr. Andersen served as Vice Chairman of PaineWebber, and as head of the Investment Banking Group at Drexel Burnham Lambert Incorporated. Mr. Andersen is the lead director for Terex Corporation (NYSE: TEX). He is a founder of the Garn Institute of Finance at the University of Utah; a member of the International Advisory Council of the Guanghua School of Management at Peking University; and sits on the advisory board of the RAND Corporation's Center for Asia Pacific Policy. Mr. Andersen holds a master's degree from the Kellogg School of Management and is a chartered financial analyst. Mr. Andersen has been appointed the Chairman of the Compensation Committee of the Company.

Michael G. Jesselson

Michael Jesselson, 59, is the president of Jesselson Capital Corporation. He is a longstanding director of American Eagle Outfitters, Inc. (NYSE: AEO), and serves as the company's lead independent director. Additionally, Mr. Jesselson is a member of the board of directors of U*tique, Inc., and he has numerous non-profit affiliations, including Chairman of American Friends of Bar-Ilan University; trustee of Yeshiva University; board member of SAR Academy; Co-Chairman of Shaare Zedek Medical Center board of directors in Jerusalem; board member of the Center for Jewish History; trustee of the American Jewish Historical Society; board member of the National Museum of American Jewish History; and board member of the Leo Baeck Institute. Mr. Jesselson has been appointed the Chairman of the Nominating Committee and a member of the Audit Committee of the Company.

Adrian P. Kingshott

Adrian Kingshott, 51, is the Chief Executive Officer of AdSon LLC, and an affiliated managing director of The Bank Street Group LLC. Previously, with Goldman Sachs, he served as co-head of the firm's Leveraged Finance business, among other positions. More recently, Mr. Kingshott was a managing director of Amaranth Advisors, LLC. He is an adjunct professor of Global Capital Markets at Fairfield University's Dolan School of Business; and an adjunct professor of International Corporate Financial Management at Fordham University's School of Business. He holds a masters of business administration degree from Harvard Business School and a masters of jurisprudence degree from Oxford University. Mr. Kingshott is a member of the board of directors of Centre Lane Investment Corp. Mr. Kingshott has been appointed to the Compensation Committee and the Audit Committee of the Company.

Jason D. Papastavrou

Jason Papastavrou, Ph.D., 48, is the founder and Chief Investment Officer of ARIS Capital Management, LLC, and is the co-founder of Empiric Asset Management, LLC. Previously, Dr. Papastavrou was the founder and managing director of the Fund of Hedge Funds Strategies Group of Banc of America Capital Management (BACAP); president of BACAP Alternative Advisors; and a senior portfolio manager with Deutsche Asset Management. He was a tenured professor at Purdue University School of Industrial Engineering, and holds a doctorate in electrical engineering and computer science from the Massachusetts Institute of Technology. Dr. Papastavrou serves on the board of directors of United Rentals, Inc. Mr. Papastavrou has been appointed the Chairman of the Audit Committee, the Audit Committee "Financial Expert" and a member of the Nominating Committee of the Company.

Oren G. Shaffer

Oren Shaffer, 69, was most recently Vice Chairman and Chief Financial Officer of Qwest Communications International, Inc. (now CenturyLink, Inc.). Previously, Mr. Shaffer was President and Chief Operating Officer of Sorrento Networks, Inc.; Executive Vice President and Chief Financial Officer of Ameritech Corporation; and held senior executive positions with Goodyear Tire & Rubber Company, where he also served on the board of directors. Mr. Shaffer is a director on the boards of Terex Corporation (NYSE: TEX); Belgacom S.A. (BCOM.BR); and Intermec, Inc. (NYSE: IN). He holds a master's degree in management from the Sloan School of Management, Massachusetts Institute of Technology, and a degree in finance and business administration from the University of California, Berkeley. Mr. Shaffer has been appointed to the Compensation Committee of the Company.

James J. Martell is continuing as a director of the Company.

James J. Martell

James Martell, 57, is an independent operating executive with Welsh, Carson, Anderson & Stowe, for companies in the transportation logistics sector and related industries. Previously, he was Chief Executive Officer and Chairman of the Board of SmartMail Services, Inc.; Executive Vice President of Americas for UTi Worldwide Inc.; and Chief Executive Officer and international Vice President of Burlington Air Express Canada. Earlier, Mr. Martell held management positions with Federal Express Corporation and United Parcel Service, Inc. He currently serves as a director of Mobile Mini, Inc., and is a past Chairman of the Board of the Company. Additionally, Mr. Martell is lead director for Ozburn-Hessey Logistics LLC, Chairman of the Board of Vision Logistics Holding Corp., lead director for 3PD, Inc., and Chairman of the Board of ProTrans International. He holds a degree in business administration from Michigan Technological University. Mr. Martell has been appointed to the Nominating Committee of the Company.

Each of Messrs. Jacobs, Andersen, Jesselson, Kingshott, Martell and Papastavrou have direct or indirect rights under the Registration Rights Agreement in their capacities as direct or indirect holders of Registrable Securities.

Other Changes in Management

On September 2, 2011, Michael R. Welch resigned as Chief Executive Officer of the Company. Mr. Welch remains employed by the Company in an executive capacity.

Adoption of 2011 Omnibus Incentive Compensation Plan

At the special meeting of the stockholders of the Company on September 1, 2011, the stockholders adopted the 2011 Omnibus Incentive Compensation Plan (the "Plan"). The Plan is described in detail and is included as Exhibit D to Annex A of the Definitive Proxy Statement of the Company filed with the Securities and Exchange Commission on August 3, 2011, which description is incorporated herein by reference.

The information described under Item 5.01 above is incorporated by reference herein.

Item 5.03. Amendments to Certificate of Incorporation and Bylaws; Change in Fiscal Year.

On September 1, 2011, in accordance with the terms of the Investment Agreement, the Company filed a Certificate of Amendment to the Amended and Restated Certificate of Incorporation, as amended (the "Certificate of Amendment") of the Company, (a) to increase the number of authorized shares of Company common stock to 150,000,000 shares; (b) to give effect to a 4-for-1 reverse stock split of the Company common stock; (c) to provide that any vacancy on our Board of Directors shall be filled by the remaining directors or director; and (d) to change the name of the Company to "XPO Logistics, Inc." The Certificate of Amendment became effective at 8:45 a.m., EDT, on September 2, 2011.

The description of the Certificate of Amendment is qualified in its entirety by reference to the Certificate of Amendment, a copy of which is attached hereto as Exhibit 3.1 and is incorporated by reference herein.

Item 8.01. Other Events.

Announcement of Closing of the Equity Investment

A copy of the press release announcing the closing of the Equity Investment is attached as Exhibit 99.1 to this Current Report on Form 8-K and incorporated by reference herein.

JPE Lock-up Letter

In addition, following consummation of the Equity Investment, in order to reinforce JPE's long-term commitment to the Company and its stockholders, JPE, acting unilaterally and voluntarily, committed to the Company that, during the period ending one year from the closing, it will not sell or otherwise transfer any of the Preferred Stock or Warrants or the Company common stock issuable upon conversion or exercise thereof, other than transfers to affiliates who also make such commitment, or as security for financial planning purposes and charitable contributions. A copy of the letter from JPE to the Company documenting this commitment is attached hereto as Exhibit 99.2 and is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits

(d) Exhibits

<u>Exhibit No.</u>	<u>Exhibit Description</u>
2.1	Investment Agreement, dated as of June 13, 2011, by and among Jacobs Private Equity, LLC, each of the other investors party thereto and Express-1 Expedited Solutions, Inc., filed as Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the SEC on June 14, 2011 and incorporated herein by reference.
3.1	Certificate of Amendment to the Certificate of Incorporation of the Company, dated September 1, 2011.
4.1	Certificate of Designation of Series A Convertible Perpetual Preferred Stock of XPO Logistics, Inc.
4.2	Form of Warrant Certificate.
4.3	Registration Rights Agreement, dated as of September 2, 2011, by and among Jacobs Private Equity, LLC, each of the other holders and designated secured lenders party thereto and the Company.
99.1	Press Release, dated September 2, 2011, issued by XPO Logistics, Inc.
99.2	Letter, dated September 2, 2011, from Jacobs Private Equity, LLC to XPO Logistics, Inc.

SIGNATURE

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

Dated September 2, 2011

XPO LOGISTICS, INC.

By: /s/ Bradley S. Jacobs
Bradley S. Jacobs
Chief Executive Officer

EXHIBIT INDEX

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**CERTIFICATE OF AMENDMENT TO THE
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF
EXPRESS-1 EXPEDITED SOLUTIONS, INC.**

Pursuant to Section 242 of the General Corporation Law of the State of Delaware (the “DGCL”), the undersigned officer of Express-1 Expedited Solutions, Inc., a corporation organized and existing under and by virtue of the DGCL (the “Corporation”), certifies:

FIRST: The amendments to the Amended and Restated Certificate of Incorporation of the Corporation, as previously amended (the “Certificate of Incorporation”), set forth in this Certificate of Amendment have been duly adopted in accordance with Section 242 of the DGCL, having been approved by the Board of Directors of the Corporation on June 13, 2011 and July 22, 2011, and approved by the holders of a majority of the Corporation’s outstanding stock entitled to vote thereon on September 1, 2011, and shall become effective as of 8:45 a.m., EDT, on September 2, 2011.

SECOND: Article I of the Certificate of Incorporation is deleted in its entirety and replaced with the following:

**“ARTICLE I
CORPORATE NAME**

The name of this Corporation shall be: XPO LOGISTICS, INC.”

THIRD: Article IV of the Certificate of Incorporation is deleted in its entirety and replaced with the following:

**“ARTICLE IV
CAPITAL STOCK**

The maximum number of shares that this Corporation shall be authorized to issue and have outstanding at any one time shall be One Hundred Fifty Million (150,000,000) shares of common stock, par value \$0.001 per share, and Ten Million (10,000,000) shares of preferred stock, par value \$0.001 per share. Series of preferred stock may be created and issued from time to time, with such designations, preferences, conversion rights, cumulative, relative, participating, optional or other rights, including voting rights, qualifications, limitations or restrictions thereof as shall be stated and expressed in the resolution or resolutions providing for the creation and issuance of such series of preferred stock as adopted by the Board of Directors pursuant to the authority in this paragraph given.

Effective as of 8:45 a.m., EDT, on September 2, 2011, each four shares of the Corporation’s common stock, par value \$0.001 per share, then issued and outstanding or held by the Corporation as treasury stock shall, automatically and without any action on the part of the respective holders thereof, be combined and converted into one share of common stock, par value \$0.001, of the Corporation. No fractional shares shall be issued in connection with the foregoing combination and conversion and, in lieu thereof, any holder of the Corporation’s

common stock otherwise entitled to a fraction of a share of the Corporation's common stock shall, (i) in the case of a registered holder who holds common stock of the Corporation in book-entry form with the Corporation's transfer agent, without further action on the part of such holder, and (ii) in the case of a registered holder who holds common stock of the Corporation in certificated form, upon delivery of a properly completed and duly executed transmittal letter from such holder and the surrender of such holder's stock certificates, be entitled to receive cash for such holder's fractional share based upon the net proceeds attributable to the sale of such fractional share following the aggregation and sale by the Corporation's exchange agent of all fractional shares otherwise issuable."

FOURTH: Article VII of the Certificate of Incorporation is amended by inserting the following as a new second paragraph thereof:

"Any director elected to fill a vacancy not resulting from an increase in the number of directors shall have the same remaining term as that of such director's predecessor. Any vacancy on the Board of Directors, whether resulting from an increase in the number of directors or otherwise, shall be filled by the affirmative vote of a majority of the directors then holding office, even if less than a quorum, or by a sole remaining director."

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be duly executed by its Chief Executive Officer this September 1, 2011.

EXPRESS-1 EXPEDITED SOLUTIONS, INC.

By: /s/ Michael R. Welch

Michael R. Welch
Chief Executive Officer

CERTIFICATE OF DESIGNATION OF
SERIES A CONVERTIBLE PERPETUAL PREFERRED STOCK OF
XPO LOGISTICS, INC.

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

XPO Logistics, Inc., a Delaware corporation (the "Company"), certifies that pursuant to the authority contained in its Amended and Restated Certificate of Incorporation (as amended, the "Certificate of Incorporation"), and in accordance with the provisions of Section 151 of the General Corporation Law of the State of Delaware (the "DGCL"), the Board of Directors of the Company (the "Board of Directors"), by resolution adopted by unanimous written consent pursuant to Section 141(f) of the DGCL, on September 1, 2011, duly approved and adopted the following resolution, which resolution remains in full force and effect on the date hereof:

RESOLVED, that pursuant to the authority vested in the Board of Directors by the Amended and Restated Certificate of Incorporation, as amended, the Board of Directors does hereby designate, create, authorize and provide for the issue of a series of the Company's preferred stock, par value \$0.001 per share, with an initial liquidation preference of \$1,000 per share (the "Initial Liquidation Preference"), subject to accretion and adjustment as provided in Sections 2(c) and 15(a) of this Certificate of Designation, which shall be designated as Series A Convertible Perpetual Preferred Stock (the "Series A Preferred Stock"), consisting of 75,000 shares, no shares of which have heretofore been issued by the Company, having the following powers, designations, preferences and relative, participating, optional and other special rights, and qualifications, limitations and restrictions thereof:

Certain defined terms used in this Certificate of Designation have the meanings assigned thereto in Section 13.

Section 1. Ranking. The Series A Preferred Stock shall rank, with respect to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Company, (i) senior to the common stock, par value \$0.001 per share, of the Company (the "Common Stock"), whether now outstanding or hereafter issued, and to each other class or series of stock of the Company (including any series of preferred stock established after September 2, 2011 (the "Issue Date") by the Board of Directors) the terms of which do not expressly provide that such class or series ranks senior to or pari passu with the Series A Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Company (collectively referred to as "Junior Stock"); (ii) pari passu with each class or series of stock of the Company (including any series of preferred stock established after the Issue Date by the Board of Directors) the terms of which expressly provide that such class or

series ranks pari passu with the Series A Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Company (collectively referred to as "Parity Stock"); and (iii) junior to each other class or series of stock of the Company (including any series of preferred stock established after the Issue Date by the Board of Directors) the terms of which expressly provide that such class or series ranks senior to the Series A Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Company (collectively referred to as "Senior Stock"). The Company's ability to issue Capital Stock that ranks pari passu with or senior to the Series A Preferred Stock shall be subject to the provisions of Section 4.

Section 2. Dividends. (a) General. Dividends on the Series A Preferred Stock shall be payable quarterly, when, as and if declared by the Board of Directors or a duly authorized committee thereof, out of the assets of the Company legally available therefor, on the 15th calendar day (or the following Business Day if the 15th is not a Business Day) of January, April, July and October of each year (each such date being referred to herein as a "Dividend Payment Date") at the rate per annum of 4% per share on the Accreted Liquidation Preference in effect at such time (subject to the following paragraph), which Accreted Liquidation Preference is subject to adjustment as provided in Section 15(a). The initial dividend on the Series A Preferred Stock for the dividend period commencing on the Issue Date to but excluding October 17, 2011, will be \$5.00 per share (subject to the following paragraph), and shall be payable, when, as and if declared, on October 17, 2011. The amount of dividends payable for any other period that is shorter or longer than a full quarterly dividend period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

In the event that dividends are paid on shares of Common Stock in any dividend period with respect to the Series A Preferred Stock, then the dividend payable in respect of each share of Series A Preferred Stock for such period shall be equal to the greater of (i) the amount otherwise payable in respect of such share of Series A Preferred Stock in accordance with the foregoing paragraph and (ii) the product of (A) the aggregate dividends payable per share of Common Stock in such dividend period times (B) the number of shares of Common Stock into which such share of Series A Preferred Stock is then convertible.

A dividend period with respect to a Dividend Payment Date is the period commencing on the preceding Dividend Payment Date or, if none, the Issue Date, and ending on the day immediately prior to the next Dividend Payment Date. Dividends payable, when, as and if declared, on a Dividend Payment Date shall be payable to Holders of record on the later of (i) the close of business on the first calendar day (or the following Business Day if such first calendar day is not a Business Day) of the calendar month in which the applicable Dividend Payment Date falls and (ii) the close of business on the day on which the Board of Directors or a duly authorized committee thereof declares the dividend payable (each, a "Dividend Record Date").

The Company shall make each dividend payment on the Series A Preferred Stock in cash.

Holders shall not be entitled to any dividend in excess of the then-applicable full accrued dividends calculated pursuant to this Section 2(a) on shares of Series A Preferred Stock. No interest or sum of money in lieu of interest shall be payable in respect of any dividend or payment which may be in arrears. All references in this Certificate of Designation to dividends or to a dividend rate or accretion rate shall be deemed to reflect any adjustment to the dividend rate or accretion rate pursuant to this Certificate of Designation.

(b) Payment Restrictions. No dividends or other distributions (other than a dividend or distribution payable solely in shares of Parity Stock or Junior Stock (in the case of Parity Stock) or Junior Stock (in the case of Junior Stock) and other than cash paid in lieu of fractional shares) may be declared, made or paid, or set apart for payment upon, any Parity Stock or Junior Stock, nor may any Parity Stock or Junior Stock be redeemed, purchased or otherwise acquired for any consideration (or any money paid to or made available for a sinking fund for the redemption of any Parity Stock or Junior Stock) by or on behalf of the Company (except by conversion into or exchange for shares of Parity Stock or Junior Stock (in the case of Parity Stock) or Junior Stock (in the case of Junior Stock)), unless all accrued and unpaid dividends (including any accrued and unpaid dividends that have accreted pursuant to Section 2(c) and are reflected in the Accreted Liquidation Preference) shall have been or contemporaneously are declared and paid, or are declared and a sum of cash sufficient for the payment thereof is set apart for such payment, on the Series A Preferred Stock and any Parity Stock for all dividend payment periods terminating on or prior to the date of such declaration, payment, redemption, purchase or acquisition. Notwithstanding the foregoing, if full dividends have not been paid on the Series A Preferred Stock and any Parity Stock, dividends may be declared and paid on the Series A Preferred Stock and such Parity Stock so long as the dividends are declared and paid pro rata so that the aggregate amounts of dividends declared per share on, and the amounts of such dividends declared in cash per share on, the Series A Preferred Stock and such Parity Stock will in all cases bear to each other the same ratio that accrued and unpaid dividends per share on the shares of Series A Preferred Stock and such other Parity Stock bear to each other.

(c) Accretion. If the Company is unable to, or otherwise fails to, pay dividends in full on the Series A Preferred Stock on any Dividend Payment Date as described above in Section 2(a), the Accreted Liquidation Preference will be increased as of the first day of the immediately succeeding dividend period by the Accretion Amount in respect of the unpaid dividends. If the Company pays a portion of the dividends payable on the Series A Preferred Stock on a Dividend Payment Date and accretes the unpaid portion, the Company will pay the current portion equally and ratably to Holders of Series A Preferred Stock. The amount of dividends payable for any dividend period following a non-payment of dividends will be calculated on the basis of the Accreted Liquidation Preference as of the first day of the relevant dividend period.

The Company may pay all or a portion of the amount by which the Accreted Liquidation Preference of a share of Series A Preferred Stock exceeds the Initial Liquidation Preference of a share of Series A Preferred Stock on (i) any Dividend Payment Date or (ii) any other date fixed by the Board of Directors or a duly authorized

committee thereof. The Company shall make any such payment in cash and any such payment shall be made equally and ratably to Holders of Series A Preferred Stock. The Accreted Liquidation Preference of each share of Series A Preferred Stock will be reduced as of the first day following the date of such payment by the amount of such payment (the “Paydown Amount”) and the amount of dividends will be calculated on the basis of the reduced Accreted Liquidation Preference for the period of time from the date of such reduction until the applicable Dividend Payment Date.

The Company will use its reasonable best efforts to provide notice to Holders of the Series A Preferred Stock not later than ten days prior to each Dividend Payment Date if the Company determines that it will not pay dividends on that Dividend Payment Date. Such notice shall be given by issuing a press release in accordance with Section 10(a) and by notifying the Transfer Agent. If a development occurs less than ten days prior to a Dividend Payment Date that will prevent the Company from paying dividends on that Dividend Payment Date, and the Company has not already provided notice, the Company will provide prompt notice to the Holders and the Transfer Agent as set forth above. The notice will indicate whether the Company will accrete all or a portion of the dividends, as well as the amount of the dividends to be accreted. Any failure by the Company to deliver such notice will not impair the Company’s ability to accrete dividends in any respect.

Section 3. Liquidation Preference. In the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Company, each Holder shall be entitled to receive out of the assets of the Company available for distribution to stockholders of the Company, before any distribution of assets is made on the Common Stock or any other Junior Stock, an amount equal to the greater of (i) the aggregate Accreted Liquidation Preference attributable to shares of Series A Preferred Stock held by such Holder, subject to adjustment as provided in Section 15(a), plus an amount equal to the sum of all accrued and unpaid dividends (whether or not declared) for the then-current dividend period, and (ii) the product of (x) the amount per share that would have been payable upon such liquidation, dissolution or winding-up to the holders of shares of Common Stock or such other class or series of securities into which the Series A Preferred Stock is then convertible (assuming the conversion of each share of Series A Preferred Stock and without deduction for the Accreted Liquidation Preference otherwise payable pursuant to clause (i)), multiplied by (y) the number of shares of Common Stock or such other securities into which the shares of Series A Preferred Stock held by such Holder are then convertible.

None of (i) the sale of all or substantially all of the property or business of the Company (other than in connection with the voluntary or involuntary liquidation, dissolution or winding-up of the Company), (ii) the merger, conversion or consolidation of the Company into or with any other Person or (iii) the merger, conversion or consolidation of any other Person into or with the Company, shall constitute a voluntary or involuntary liquidation, dissolution or winding-up of the Company for the purposes of the immediately preceding paragraph.

In the event the assets of the Company available for distribution to Holders upon any liquidation, winding-up or dissolution of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such Holders are entitled pursuant to this Section 3, no such distribution shall be made on account of any shares of Parity Stock upon such liquidation, dissolution or winding-up unless proportionate distributable amounts shall be paid on account of the shares of Series A Preferred Stock, ratably, in proportion to the full distributable amounts for which Holders and holders of any Parity Stock are entitled upon such liquidation, winding-up or dissolution, with the amount allocable to each series of such stock determined on a pro rata basis of the aggregate liquidation preference of the outstanding shares of each series and accrued and unpaid dividends to which each series is entitled.

After the payment to the Holders of the full preferential amounts provided for above, the Holders as such shall have no right or claim to any of the remaining assets of the Company.

Section 4. Voting Rights. (a) The Holders of shares of Series A Preferred Stock shall be entitled to vote along with the holders of Common Stock on all matters on which holders of Common Stock are entitled to vote. The Holders shall participate in such votes as if the shares of Series A Preferred Stock were converted into shares of Common Stock in accordance with this Certificate of Designation as of the record date for the determination of holders of Common Stock entitled to vote. In addition, each Holder shall have one vote for each share of Series A Preferred Stock held by such Holder on all matters voted upon by the holders of Series A Preferred Stock as a separate class, as well as voting rights specifically required by the DGCL from time to time.

(b) So long as any Series A Preferred Stock is outstanding, in addition to any other vote of stockholders of the Company required under applicable law or the Certificate of Incorporation, the affirmative vote or consent of the Holders of at least a majority of the outstanding shares of the Series A Preferred Stock, voting separately as a single class, will be required (i) for any amendment of the Certificate of Incorporation if the amendment would alter or change the powers, preferences, privileges or rights of the Holders so as to affect them adversely, (ii) to issue, authorize or increase the authorized amount of, or issue or authorize any obligation or security convertible into or evidencing a right to purchase, any Parity Stock or Senior Stock, or (iii) to reclassify any authorized stock of the Company into any Parity Stock or Senior Stock, or any obligation or security convertible into or evidencing a right to purchase any Parity Stock or Senior Stock, provided that, for avoidance of doubt, no such vote shall be required for the Company to issue, authorize or increase the authorized amount of, or issue or authorize any obligation or security convertible into or evidencing a right to purchase, any Junior Stock.

Section 5. Conversion at the Option of the Holder. (a) Each share of Series A Preferred Stock is convertible, in whole or in part, at the option of the Holder thereof ("Optional Conversion"), into the number of shares of Common Stock (the "Conversion Rate") obtained by dividing (i) the Accreted Liquidation Preference by (ii) the Conversion Price then in effect.

(b) Holders of shares of Series A Preferred Stock who convert their shares on a day other than a Dividend Payment Date will not be entitled to any accrued dividends for the dividend period in which they convert their shares. Accordingly, shares of Series A Preferred Stock surrendered for Optional Conversion after the close of business on a Dividend Record Date and before the opening of business on the immediately succeeding Dividend Payment Date must be accompanied by payment in cash of an amount equal to the dividend payable on such shares on such Dividend Payment Date. Such Holders will be entitled to receive the dividend payment on those shares on that Dividend Payment Date. A Holder on a Dividend Record Date who (or whose transferee) surrenders any shares for conversion on the corresponding Dividend Payment Date shall receive the dividend payable by the Company on the Series A Preferred Stock on that date (and if the Company fails to pay such dividend, such Holder's shares converted on such date will be converted at a Conversion Rate that reflects the Accreted Liquidation Preference after giving effect to such failure), and the converting Holder shall not be required to include payment in the amount of such dividend upon surrender of shares of Series A Preferred Stock for conversion. Except as provided above, upon any Optional Conversion of shares of Series A Preferred Stock, the Company shall make no payment or allowance for unpaid dividends, whether or not in arrears, on such shares of Series A Preferred Stock as to which Optional Conversion has been effected or for dividends on the shares of Common Stock issued upon such Optional Conversion.

(c) The conversion right of a Holder shall be exercised by the Holder of shares of Series A Preferred Stock by the surrender to the Company of the certificates representing shares of Series A Preferred Stock to be converted at any time during usual business hours at its principal place of business or the offices of the Transfer Agent, accompanied by written notice to the Company that the Holder elects to convert all or a portion of the shares of Series A Preferred Stock represented by such certificate and specifying the name or names (with address) in which a certificate or certificates or other appropriate evidence of ownership representing shares of Common Stock are to be issued and (if so required by the Company or the Transfer Agent) by a written instrument or instruments of transfer in form reasonably satisfactory to the Company or the Transfer Agent duly executed by the Holder or its duly authorized legal representative and transfer tax stamps or funds therefor, if required pursuant to Section 15(f). The date on which a Holder satisfies the foregoing requirements for conversion is referred to herein as the "Conversion Date." The Company will deliver shares of Common Stock (or such other class or series of securities into which the Series A Preferred Stock is then convertible) due upon conversion, together with any cash in lieu of fractional shares in accordance with Section 14 hereof, in accordance with Section 6. Immediately prior to the close of business on the Conversion Date, each converting Holder shall be deemed to be the holder of record of the shares of Common Stock (or such other class or series of securities into which the Series A Preferred Stock is then convertible) issuable upon conversion of such Holder's Series A Preferred Stock notwithstanding that the share register of the Company shall then be closed or that certificates or other appropriate evidence of ownership representing such Common Stock (or such other class or series of securities into which the Series A Preferred Stock is then convertible) shall not then be actually delivered to such Holder. On the Conversion Date, all rights with respect to the

shares of Series A Preferred Stock so converted, including the rights, if any, to receive notices, will terminate, except the rights of Holders thereof to (a) receive certificates or other appropriate evidence of ownership representing the number of whole shares of Common Stock (or such other class or series of securities into which the Series A Preferred Stock is then convertible) into which such shares of Series A Preferred Stock have been converted and cash in lieu of any fractional shares, in accordance with Section 14 hereof and (b) exercise the rights to which they are entitled as holders of Common Stock (or such other class or series of securities into which the Series A Preferred Stock is then convertible).

Section 6. Settlement upon Conversion. The Company shall satisfy its obligation to deliver shares of Common Stock (or such other class or series of securities into which the Series A Preferred Stock is then convertible) upon conversion of Series A Preferred Stock by delivering to Holders surrendering shares for conversion a number of shares of Common Stock (or such other class or series of securities into which the Series A Preferred Stock is then convertible) equal to the product of (x) the aggregate number of shares of Series A Preferred Stock to be converted multiplied by (y) the Conversion Rate then in effect (provided that the Company will deliver cash in lieu of fractional shares in accordance with Section 14), as soon as practicable after the third Trading Day (but in no event later than the fifth Business Day) following the Conversion Date.

Section 7. Anti-dilution Adjustments. (a) The Conversion Price shall be subject to the following adjustments from time to time:

(i) Stock Dividends. In case the Company shall pay or make a dividend or other distribution on the Common Stock in Common Stock, the Conversion Price, as in effect at the opening of business on the day following the date fixed for the determination of stockholders of the Company entitled to receive such dividend or other distribution, shall be adjusted by multiplying such Conversion Price by a fraction of which the numerator shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such adjustment to become effective immediately after the opening of business on the day following the date fixed for such determination.

(ii) Stock Purchase Rights. In case the Company shall issue to all holders of its Common Stock options, warrants or other rights entitling them to subscribe for or purchase shares of Common Stock for a period expiring within 60 days from the date of issuance of such options, warrants or other rights at a price per share of Common Stock less than the Market Value on the date fixed for the determination of stockholders of the Company entitled to receive such options, warrants or other rights (other than pursuant to a dividend reinvestment, share purchase or similar plan), the Conversion Price in effect at the opening of business on the day

following the date fixed for such determination shall be adjusted by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock which the aggregate consideration expected to be received by the Company upon the exercise, conversion or exchange of such options, warrants or other rights (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) would purchase at such Market Value and the denominator of which shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock so offered for subscription or purchase, either directly or indirectly, such adjustment to become effective immediately after the opening of business on the day following the date fixed for such determination; provided, however, that no such adjustment to the Conversion Price shall be made if the Holders would be entitled to receive such options, warrants or other rights upon conversion at any time of shares of Series A Preferred Stock into Common Stock; provided, further, however, that if any of the foregoing options, warrants or other rights are only exercisable upon the occurrence of a Triggering Event, then the Conversion Price will not be adjusted until such Triggering Event occurs.

(iii) Stock Splits, Reverse Splits and Combinations. In case outstanding shares of Common Stock shall be subdivided, split or reclassified into a greater number of shares of Common Stock, the Conversion Price in effect at the opening of business on the day following the day upon which such subdivision, split or reclassification becomes effective shall be proportionately reduced, and, conversely, in case outstanding shares of Common Stock shall be combined or reclassified into a smaller number of shares of Common Stock, the Conversion Price in effect at the opening of business on the day following the day upon which such combination or reclassification becomes effective shall be proportionately increased, such reduction or increase, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision, split, reclassification or combination becomes effective.

(iv) Debt, Asset or Security Distributions. (A) In case the Company shall, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its indebtedness, assets or securities (but excluding any dividend or distribution of options, warrants or other rights referred to in paragraph (ii) of this Section 7(a), any dividend or distribution paid exclusively in cash, any dividend or distribution of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit in the case of a Spin-off referred to in the next subparagraph, or any dividend or distribution

referred to in paragraph (i) of this Section 7(a)), the Conversion Price shall be reduced by multiplying the Conversion Price in effect immediately prior to the close of business on the date fixed for the determination of stockholders of the Company entitled to receive such distribution by a fraction, the numerator of which shall be the Market Value on the date fixed for such determination and the denominator of which shall be such Market Value plus the fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) of the portion of the assets or evidences of indebtedness so distributed applicable to one share of Common Stock, such adjustment to become effective immediately prior to the opening of business on the day following the date fixed for the determination of stockholders of the Company entitled to receive such distribution. In any case in which this subparagraph (iv)(A) is applicable, subparagraph (iv)(B) of this Section 7(a) shall not be applicable.

(B) In the case of a Spin-off, the Conversion Price in effect immediately prior to the close of business on the date fixed for determination of stockholders of the Company entitled to receive such distribution shall be reduced by multiplying the Conversion Price by a fraction, the numerator of which shall be the Market Value and the denominator of which shall be the Market Value plus the fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) of the portion of those shares of Capital Stock or similar equity interests so distributed applicable to one share of Common Stock. Any adjustment to the Conversion Price under this subparagraph (iv)(B) will occur on the date that is the earlier of (1) the tenth Trading Day from, and including, the effective date of the Spin-off and (2) the date of the Initial Public Offering of the securities being distributed in the Spin-off, if that Initial Public Offering is effected simultaneously with the Spin-off.

(v) Tender Offers. In the case that a tender or exchange offer made by the Company or any Subsidiary of the Company for all or any portion of the Common Stock shall expire and such tender or exchange offer (as amended through the expiration thereof) shall require the payment to stockholders of the Company (based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of Purchased Shares) of aggregate consideration having a fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) per share of Common Stock that exceeds the Closing Sale Price of the Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, then, immediately prior to the opening of business on the day after the date of the last time (the "Expiration Time") tenders or exchanges

could have been made pursuant to such tender or exchange offer (as amended through the expiration thereof), the Conversion Price shall be reduced by multiplying the Conversion Price immediately prior to the close of business on the date of the Expiration Time by a fraction (A) the numerator of which shall be equal to the product of (x) the Market Value on the date of the Expiration Time and (y) the number of shares of Common Stock outstanding (including any tendered or exchanged shares) on the date of the Expiration Time, and (B) the denominator of which shall be equal to (x) the product of (I) the Market Value on the date of the Expiration Time and (II) the number of shares of Common Stock outstanding (including any tendered or exchanged shares) on the date of the Expiration Time less the number of all shares validly tendered or exchanged, not withdrawn and accepted for payment on the date of the Expiration Time (such validly tendered or exchanged shares, up to any such maximum, being referred to as the "Purchased Shares") plus (y) the amount of cash plus the fair market value (determined as aforesaid) of the aggregate consideration payable to stockholders of the Company pursuant to the tender or exchange offer (assuming the acceptance, up to any maximum specified in the terms of the tender or exchange offer, of Purchased Shares).

(b) De Minimis Adjustments. Notwithstanding anything herein to the contrary, no adjustment under this Section 7 need be made to the Conversion Price unless such adjustment would require an increase or decrease of at least 1.0% of the Conversion Rate then in effect. Any lesser adjustment shall be carried forward and shall be made at the time of and together with the next subsequent adjustment, if any, which, together with any adjustment or adjustments so carried forward, shall result in an increase or decrease of at least 1.0% of such Conversion Rate. No adjustment under this Section 7 shall be made if such adjustment will result in a Conversion Price that is less than the par value of the Common Stock. All adjustments to the Conversion Rate shall be calculated to the nearest 1/10,000th of a share of Common Stock (or if there is not a nearest 1/10,000th of a share to the next lower 1/10,000th of a share).

(c) Tax-Related Adjustments. The Company may make such reductions in the Conversion Price, in addition to those required by this Section 7, as the Board of Directors considers advisable in order to avoid or diminish any income tax to any holders of shares of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax purposes. In the event the Company elects to make such a reduction in the Conversion Price, the Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder if and to the extent that such laws and regulations are applicable in connection with the reduction in the Conversion Price.

(d) Stockholder Rights Plans. Upon conversion of the Series A Preferred Stock, to the extent that the Holders receive Common Stock, such Holders shall receive, in addition to the shares of Common Stock and any cash for fractional shares in

accordance with Section 14, if any, the rights issued under any future stockholder rights plan the Company may establish whether or not such rights are separated from the Common Stock prior to conversion. A distribution of rights pursuant to any stockholder rights plan will not result in an adjustment to the Conversion Price pursuant to Section 7(a)(ii) or 7(a)(iv), provided that the Company has provided for the Holders to receive such rights upon conversion.

(e) Notice of Adjustment. Whenever the Conversion Price is adjusted in accordance with this Section 7, the Company shall (i) compute the Conversion Price in accordance with this Section 7 and prepare and transmit to the Transfer Agent an Officer's Certificate setting forth the Conversion Price, the method of calculation thereof in reasonable detail, and the facts requiring such adjustment and upon which such adjustment is based and (ii) as soon as practicable following the occurrence of an event that requires an adjustment to the Conversion Price pursuant to this Section 7 (or if the Company is not aware of such occurrence, as soon as practicable after becoming so aware), the Company or, at the request and expense of the Company, the Transfer Agent shall provide a written notice to the Holders of the occurrence of such event and a statement setting forth in reasonable detail the method by which the adjustment to the Conversion Price was determined and setting forth the adjusted Conversion Price.

(f) Reversal of Adjustment. If the Company shall take a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or other distribution, and shall thereafter (and before the dividend or distribution has been paid or delivered to stockholders) legally abandon its plan to pay or deliver such dividend or distribution, then thereafter no adjustment in the Conversion Price then in effect shall be required by reason of the taking of such record.

(g) Exceptions to Adjustment. The applicable Conversion Price shall not be adjusted:

- (i) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any such plan;
- (ii) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its Subsidiaries;
- (iii) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the Issue Date;
- (iv) for a change in the par value of the Common Stock;

(v) for accrued and unpaid dividends on the Series A Preferred Stock; or

(vi) for the 4-for-1 reverse stock split consummated on the Issue Date pursuant to the Investment Agreement dated as of June 13, 2011, by and among Jacobs Private Equity, LLC, the other investors party thereto (including by joinders thereto) and the Company.

Section 8. Recapitalizations, Reclassifications and Changes in the Company's Stock. In the event of any reclassification of outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value), or any consolidation or merger of the Company with or into another Person (other than with a Subsidiary of the Company) or any merger of another Person with or into the Company (other than a consolidation or merger in which the Company is the resulting or surviving Person and that does not result in any reclassification or change of outstanding Common Stock), or any sale or other disposition to another Person of all or substantially all of the assets of the Company (computed on a consolidated basis) (any of the foregoing, a "Transaction"), upon conversion of its shares of Series A Preferred Stock, a Holder will be entitled to receive the kind and amount of securities (of the Company or another issuer), cash and other property receivable upon such Transaction by a holder of the number of shares of Common Stock into which such shares of Series A Preferred Stock were convertible immediately prior to such Transaction, after giving effect to any adjustment event or, in the event holders of Common Stock have the opportunity to elect the form of consideration to be received in any Transaction, the weighted average of the forms and amounts of consideration received by the holders of the Common Stock. In the event that at any time, as a result of an adjustment made pursuant to this Certificate of Designation, the Holders shall become entitled upon conversion to any securities other than, or in addition to, shares of Common Stock, thereafter the number or amount of such other securities so receivable upon conversion shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Common Stock set forth in this Certificate of Designation.

Section 9. Consolidation, Merger and Sale of Assets. (a) The Company, without the consent of the Holders (but subject, for avoidance of doubt, to the right of the Holders to vote on any such transaction in accordance with the first two sentences of Section 4(a)), may consolidate with or merge into any other Person or convey, transfer or lease all or substantially all its assets to any Person or may permit any Person to consolidate with or merge into, or transfer or lease all or substantially all its properties to, the Company; provided, however, that (i) the successor, transferee or lessee is organized under the laws of the United States or any political subdivision thereof; (ii) the shares of Series A Preferred Stock will become shares of such successor, transferee or lessee, having in respect of such successor, transferee or lessee the same powers, preferences and relative participating, optional or other special rights and the qualification, limitations or restrictions thereon, the Series A Preferred Stock had immediately prior to such transaction; and (iii) the Company delivers to the Transfer Agent an Officer's Certificate

and an Opinion of Counsel, acceptable to the Transfer Agent, stating that such transaction complies with this Certificate of Designation.

(b) Upon any consolidation by the Company with, or merger by the Company into, any other Person or any conveyance, transfer or lease of all or substantially all the assets of the Company as described in Section 9(a), the successor resulting from such consolidation or into which the Company is merged or the transferee or lessee to which such conveyance, transfer or lease is made, will succeed to, and be substituted for, and may exercise every right and power of, the Company under the shares of Series A Preferred Stock, and thereafter, except in the case of a lease, the predecessor (if still in existence) will be released from its obligations and covenants with respect to the Series A Preferred Stock.

Section 10. Notices. (a) When the Company is required, pursuant to this Certificate of Designation, to give notice to Holders by issuing a press release, rather than directly to Holders, the Company shall do so in a public medium that is customary for such press release; provided, however, that in such cases, publication of a press release through the Dow Jones News Service shall be considered sufficient to comply with such notice obligation.

(b) When the Company is required, pursuant to this Certificate of Designation, to give notice to Holders without specifying the method of giving such notice, the Company shall do so by sending notice via first class mail or by overnight courier to the Holders of record as of a reasonably current date.

Section 11. Transfer of Securities. (a) The shares of Series A Preferred Stock and the shares of Common Stock issuable upon conversion of the Series A Preferred Stock (collectively, the "Securities") have not been registered under the Securities Act or any other applicable securities laws and may not be offered or sold except in compliance with the registration requirements of the Securities Act and any other applicable securities laws, or pursuant to an exemption from registration under the Securities Act and any other applicable securities laws, or in a transaction not subject to such laws. The Securities will have the benefit of certain registration rights under the Securities Act pursuant to a Registration Rights Agreement entered into by the Company and the Holders on the Issue Date, a copy of which may be obtained from the Company by writing to it at XPO Logistics, Inc., 3399 South Lakeshore Drive, Suite 225, Saint Joseph, MI 49085, Attention: Secretary of the Board of Directors.

(b) Except in connection with a registration statement relating to the Securities, if shares of Series A Preferred Stock in certificated form are delivered upon the transfer, exchange or replacement of shares of Series A Preferred Stock bearing the Restricted Stock Legend, or if a request is made to remove such Restricted Stock Legend on shares of Series A Preferred Stock, the shares of Series A Preferred Stock so issued shall bear the Restricted Stock Legend and the Restricted Stock Legend shall not be removed unless there is delivered to the Company and the Transfer Agent such satisfactory evidence, which may include an Opinion of Counsel licensed to practice law in the State of New York, as may be reasonably required by the Company, that such

shares of Series A Preferred Stock are not “restricted securities” within the meaning of Rule 144 under the Securities Act. Upon provision of such satisfactory evidence, the Transfer Agent, at the direction of the Company, shall countersign and deliver shares of Series A Preferred Stock that do not bear the Restricted Stock Legend.

(c) Shares of Common Stock issued upon a conversion of the shares of Series A Preferred Stock bearing the Restricted Stock Legend, prior to the first anniversary of the Issue Date, shall be in global form and bear a restricted common stock legend that corresponds to the Restricted Stock Legend (the “Restricted Common Stock Legend”).

(d) The Company will refuse to register any transfer of Securities that is not made in accordance with the provisions of the Restricted Stock Legend or the Restricted Common Stock Legend, as applicable, provided that the provisions of this Section 11(d) shall not be applicable to any Security that does not bear any Restricted Stock Legend or any Restricted Common Stock Legend.

Section 12. Tax Treatment. The Company and the Holders acknowledge and agree that it is intended that the Series A Preferred Stock constitute stock other than “preferred stock” within the meaning of Section 305 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder, and that neither the Company nor the Holders shall treat the Series A Preferred Stock as such.

Section 13. Definitions. (a) “Accretion Amount” per share of Series A Preferred Stock for any Dividend Payment Date on which accrued dividends are not paid in full, means the product of (i) the accretion rate of 4% per annum, calculated on a quarterly basis, as such may be adjusted pursuant to Section 2(a), (ii) the Accreted Liquidation Preference as of the first day of the relevant dividend period and (iii) the fraction of the accrued dividends for that dividend period that were not paid on the Dividend Payment Date.

(b) “Accreted Liquidation Preference” per share of Series A Preferred Stock means, as of any date, the Initial Liquidation Preference increased by the sum of the Accretion Amounts, if any, for all prior Dividend Payment Dates, and decreased by the sum of the Paydown Amounts, if any, for all prior Dividend Payment Dates or other dates on which Paydown Amounts were paid.

(c) “Board of Directors” has the meaning set forth in the first paragraph of this Certificate of Designation.

(d) “Board Resolution” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Transfer Agent.

(e) “Business Day” means any day other than a Saturday or Sunday or any other day on which banks in the City of New York are authorized or required by law or executive order to close.

(f) “Capital Stock” of any Person means any and all shares, interests, participations or other equivalents however designated of corporate stock or other equity participations, including partnership interests, whether general or limited, of such Person and any rights (other than debt securities convertible or exchangeable into an equity interest), warrants or options to acquire an equity interest in such Person.

(g) “Certificate of Incorporation” has the meaning set forth in the first paragraph of this Certificate of Designation.

(h) The “Closing Sale Price” of the Common Stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported on the over-the-counter “Pink Sheets” market or, if the Common Stock is listed on a national securities exchange, the principal national securities exchange on which the Common Stock is traded. In the absence of such a quotation, the Closing Sale Price of the Common Stock will be an amount determined in good faith by the Board of Directors to be the fair market value of such Common Stock, and such determination shall be conclusive.

(i) “Common Stock” has the meaning set forth in Section 1.

(j) “Company” has the meaning set forth in the first paragraph of this Certificate of Designation.

(k) “Conversion Date” has the meaning set forth in Section 5(c).

(l) “Conversion Price” shall initially equal \$7.00 per share of Common Stock, and shall be subject to adjustment as set forth in Section 7.

(m) “Conversion Rate” has the meaning set forth in Section 5(a).

(n) “DGCL” has the meaning set forth in the first paragraph of this Certificate of Designation.

(o) “Dividend Payment Date” has the meaning set forth in Section 2(a).

(p) “Dividend Record Date” has the meaning set forth in Section 2(a).

(q) “Exchange Act” means the Securities Exchange Act of 1934, as amended.

(r) “Expiration Time” has the meaning set forth in Section 7(a)(v).

(s) “Holder” means the Person in whose name a share of Series A Preferred Stock is registered.

(t) “including” means “including, without limitation”.

(u) “Initial Liquidation Preference” has the meaning set forth in the first paragraph of this Certificate of Designation.

(v) “Initial Public Offering” means, in the event of a Spin-off, the first time securities of the same class or type as the securities being distributed in the Spin-off are bona fide offered to the public for cash.

(w) “Issue Date” has the meaning set forth in Section 1.

(x) “Junior Stock” has the meaning set forth in Section 1.

(y) “Market Value” means, with respect to any date of determination, the average Closing Sale Price of the Common Stock for a five consecutive Trading Day period preceding the earlier of (i) the day preceding the date of determination and (ii) the day before the “ex date” with respect to the issuance or distribution requiring such computation. For purposes of this definition, the term “ex date” when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the over-the-counter “Pink Sheets” market or, if the Common Stock is listed on a national securities exchange, the principal national securities exchange on which the Common Stock is traded at that time, without the right to receive the issuance or distribution.

(z) “Officer” means the Chairman of the Board, President, Chief Executive Officer, any Vice President, the Chief Financial Officer, the Chief Accounting Officer, the Treasurer, any Assistant Treasurer, the Controller, any Assistant Controller, the Secretary or any Assistant Secretary of the Company.

(aa) “Officer’s Certificate” means a certificate signed by two Officers.

(bb) “Opinion of Counsel” means a written opinion from legal counsel who is acceptable to the Company or the Transfer Agent. The counsel may be an employee of or counsel to the Company or the Transfer Agent.

(cc) “Optional Conversion” has the meaning set forth in Section 5(a).

(dd) “Parity Stock” has the meaning set forth in Section 1.

(ee) “Paydown Amount” has the meaning set forth in Section 2(c).

(ff) “Person” means any natural person, corporation, limited liability company, partnership, joint venture, trust, business association, governmental entity or other entity.

(gg) “Purchased Shares” has the meaning set forth in Section 7(a)(v).

(hh) “Restricted Common Stock Legend” has the meaning set forth in Section 11(c).

(ii) “Restricted Stock Legend” means a legend to the following effect:

“THE SECURITIES REPRESENTED BY THIS INSTRUMENT AND THE SECURITIES ISSUABLE UPON CONVERSION THEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO A REGISTRATION STATEMENT RELATING THERETO IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.”

(jj) “Securities” has the meaning set forth in Section 11(a).

(kk) “Securities Act” means the Securities Act of 1933, as amended.

(ll) “Senior Stock” has the meaning set forth in Section 1.

(mm) “Series A Preferred Stock” has the meaning set forth in the first paragraph of this Certificate of Designation.

(nn) “Spin-off” means a dividend or other distribution of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Company.

(oo) “Subsidiary” of any Person means any other Person (i) more than 50% of whose outstanding shares or securities representing the right to vote for the election of directors or other managing authority of such other Person are, now or hereafter, owned or controlled, directly or indirectly, by such first Person, but such other Person shall be deemed to be a Subsidiary only so long as such ownership or control exists, or (ii) which does not have outstanding shares or securities with such right to vote, as may be the case in a partnership, joint venture or unincorporated association, but more than 50% of whose ownership interest representing the right to make the decisions for such other Person is, now or hereafter, owned or controlled, directly or indirectly, by such first Person, but such other Person shall be deemed to be a Subsidiary only so long as such ownership or control exists.

(pp) “Trading Day” means a day during which trading in securities generally occurs on the over-the-counter “Pink Sheets” market or, if the Common Stock is listed on a national securities exchange, the principal national securities exchange on which the Common Stock is traded.

(qq) “Transaction” has the meaning set forth in Section 8.

(rr) “Transfer Agent” means Computershare Trust Company, N.A. unless and until a successor is selected by the Company, and then such successor.

(ss) “Triggering Event” means a specified event the occurrence of which entitles the holders of rights, options or warrants to exercise such rights, options or warrants.

Section 14. Fractional Shares. No fractional shares of Common Stock shall be issued to Holders. In lieu of any fraction of a share of Common Stock that would otherwise be issuable in respect of the aggregate number of shares of the Series A Preferred Stock surrendered by a Holder upon a conversion, such Holder shall have the right to receive an amount in cash (computed to the nearest cent) equal to the same fraction of the Closing Sale Price on the Trading Day next preceding the date of conversion.

Section 15. Miscellaneous. (a) The Accreted Liquidation Preference and the annual dividend rate and accretion rate set forth herein each shall be subject to equitable adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series A Preferred Stock. Such adjustments shall be determined in good faith by the Board of Directors (and such determination shall be conclusive) and submitted by the Board of Directors to the Transfer Agent.

(b) For the purposes of Section 7, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(c) If the Company shall take any action affecting the Common Stock, other than any action described in Section 7, that in the opinion of the Board of Directors would materially adversely affect the conversion rights of the Holders, then the Conversion Price for the Series A Preferred Stock may be adjusted, to the extent permitted by law, in such manner, and at such time, as the Board of Directors may determine to be equitable in the circumstances.

(d) The Company covenants that it will at all times reserve and keep available, free from preemptive rights, out of the aggregate of its authorized but unissued shares of Common Stock for the purpose of effecting conversion of the Series A Preferred Stock, the full number of shares of Common Stock deliverable upon the conversion of all outstanding shares of Series A Preferred Stock not theretofore converted. For purposes of this Section 15(d), the number of shares of Common Stock that shall be deliverable upon the conversion of all outstanding shares of Series A Preferred Stock shall be computed as if at the time of computation all such outstanding shares were held by a single Holder.

(e) The Company covenants that any shares of Common Stock issued upon conversion of the Series A Preferred Stock shall be duly and validly issued and fully paid and nonassessable, free from preemptive rights and free from all taxes, liens, charges and security interests with respect to the issuance thereof, except for transfer restrictions imposed by applicable securities laws.

(f) The Company shall pay all transfer, stamp and other similar taxes due with respect to the issuance or delivery of shares of Common Stock or other securities or property upon conversion of the Series A Preferred Stock; provided, however, that the Company shall not be required to pay any tax that may be payable with respect to any transfer involved in the issuance or delivery of shares of Common Stock or other securities or property in a name other than that of the Holder of the Series A Preferred Stock to be converted, and the Holder shall be responsible for any such tax.

(g) The Series A Preferred Stock is not redeemable.

(h) The Series A Preferred Stock is not entitled to any preemptive or subscription rights in respect of any securities of the Company.

(i) Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction should determine that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as shall be necessary to render the provision in question effective and valid under applicable law.

(j) Series A Preferred Stock may be issued in fractions of a share which shall entitle the Holder, in proportion to such Holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and have the benefit of all other rights of Holders of Series A Preferred Stock.

(k) Subject to applicable escheat laws, any monies set aside by the Company in respect of any payment with respect to shares of the Series A Preferred Stock, or dividends thereon, and unclaimed at the end of two years from the date upon which such payment is due and payable shall revert to the general funds of the Company, after which reversion the Holders of such shares shall look only to the general funds of the Company for the payment thereof. Any interest accumulated on funds so deposited shall be paid to the Company from time to time.

(l) Except as may otherwise be required by law, the shares of Series A Preferred Stock shall not have any voting powers, preferences and relative, participating, optional or other special rights, other than those specifically set forth in this Certificate of Designation or the Certificate of Incorporation.

(m) The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

(n) If any of the voting powers, preferences and relative, participating, optional and other special rights of the Series A Preferred Stock and qualifications, limitations and restrictions thereof set forth herein is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other voting powers,

preferences and relative, participating, optional and other special rights of Series A Preferred Stock and qualifications, limitations and restrictions thereof set forth herein which can be given effect without the invalid, unlawful or unenforceable voting powers, preferences and relative, participating, optional and other special rights of Series A Preferred Stock and qualifications, limitations and restrictions thereof shall, nevertheless, remain in full force and effect, and no voting powers, preferences and relative, participating, optional or other special rights of Series A Preferred Stock and qualifications, limitations and restrictions thereof herein set forth shall be deemed dependent upon any other such voting powers, preferences and relative, participating, optional or other special rights of Series A Preferred Stock and qualifications, limitations and restrictions thereof unless so expressed herein.

(o) Shares of Series A Preferred Stock that (i) have not been issued on or before the Issue Date or (ii) have been issued and reacquired in any manner, including shares of Series A Preferred Stock purchased or converted, shall (upon compliance with any applicable provisions of the laws of Delaware) have the status of authorized but unissued shares of preferred stock of the Company undesignated as to series and may be designated or redesignated and issued or reissued, as the case may be, as part of any series of preferred stock of the Company; provided that any issuance of such shares as Series A Preferred Stock must be in compliance with the terms hereof.

(p) If any of the Series A Preferred Stock certificates shall be mutilated, lost, stolen or destroyed, the Company shall issue, in exchange and in substitution for and upon cancellation of the mutilated Series A Preferred Stock certificate, or in lieu of and substitution for the Series A Preferred Stock certificate lost, stolen or destroyed, a new Series A Preferred Stock certificate of like tenor and representing an equivalent amount of shares of Series A Preferred Stock, but only upon receipt of evidence of such loss, theft or destruction of such Series A Preferred Stock certificate and indemnity, if requested, satisfactory to the Company and the Transfer Agent.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be duly executed by Michael R. Welch, Chief Executive Officer of the Company, and attested by John D. Welch, Chief Financial Officer of the Company, this 2nd day of September, 2011.

XPO LOGISTICS, INC.,

By /s/ Michael R. Welch

Name: Michael R. Welch

Title: Chief Executive Officer

ATTEST:

By /s/ John D. Welch

Name: John D. Welch

Title: Chief Financial Officer

THE SECURITIES REPRESENTED BY THIS INSTRUMENT AND THE SECURITIES ISSUABLE UPON EXERCISE THEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO A REGISTRATION STATEMENT RELATING THERETO IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

WARRANTS TO PURCHASE COMMON STOCK OF
XPO LOGISTICS, INC.

No. [•] Certificate for [INSERT HOLDER ALLOCATION] Warrants

This Warrant Certificate ("Warrant Certificate") certifies that [INSERT NAME OF HOLDER], or registered assigns, is the registered holder of the number of Warrants set forth above. Each warrant represented hereby (a "Warrant") entitles the holder thereof (the "Holder"), subject to the provisions contained herein, to purchase from XPO Logistics, Inc., a Delaware corporation (the "Company"), one share of the Company's common stock, par value \$0.001 per share ("Company Common Stock"), subject to adjustment upon the occurrence of certain events specified herein, at the exercise price of \$7.00 per share (the "Exercise Price"), subject to adjustment upon the occurrence of certain events specified herein.

This Warrant Certificate is issued under and in accordance with the Investment Agreement, dated as of June 13, 2011 (the "Investment Agreement"), by and among Jacobs Private Equity, LLC, the other Investors party thereto and the Company, and is subject to the terms and provisions contained in the Investment Agreement. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Investment Agreement.

ARTICLE I

Exercise Price; Exercise of Warrants and Expiration of Warrants

SECTION 1.01. Exercise Price. This Warrant Certificate shall entitle the Holder hereof, subject to the provisions of this Warrant Certificate, to purchase one share of Company Common Stock for each Warrant represented hereby, at the Exercise Price, in each case subject to all adjustments made on or prior to the date of exercise thereof as herein provided.

SECTION 1.02. Exercise of Warrants. (a) The Warrants shall be exercisable in whole or in part from time to time on any Business Day beginning on the Issuance Date and ending on the Expiration Date in the manner provided for herein.

SECTION 1.03. Expiration of Warrants. Any unexercised Warrants shall expire and the rights of the Holder of such Warrants to purchase Company Common Stock shall terminate at the close of business on the Expiration Date.

SECTION 1.04. Method of Exercise; Payment of Exercise Price. (a) In order to exercise a Warrant, the Holder hereof must (i) surrender this Warrant Certificate to the Company, with the Exercise Subscription Form attached hereto as Annex I duly completed and executed, at any time during usual business hours at its principal place of business or the offices of the Transfer Agent, and (ii) pay in full the Exercise Price then in effect for the shares of Company Common Stock as to which this Warrant Certificate is submitted for exercise in the manner provided in paragraph (b) of this Section 1.04.

(b) Simultaneously with the exercise of each Warrant, payment in full of the Exercise Price shall be delivered to the Company. Such payment shall be made in cash, by bank wire transfer in immediately available funds to an account designated by the Company.

(c) If fewer than all the Warrants represented by this Warrant Certificate are surrendered, this Warrant Certificate shall be surrendered and a new Warrant Certificate of the same tenor and for the number of Warrants that were not surrendered shall promptly be executed and delivered to the Person or Persons as may be directed in writing by the Holder (subject to the terms hereof), and the Company shall register the new Warrant Certificate in the name of such Person or Persons. Any new Warrant Certificate shall be executed on behalf of the Company by its President, Chief Executive Officer, Chief Financial Officer or Secretary, either manually or by facsimile signature printed thereon. In case any Officer of the Company whose signature shall have been placed upon any Warrant Certificate shall cease to be such Officer of the Company before issue and delivery thereof, such Warrant Certificate may, nevertheless, be issued and delivered with the same force and effect as though such person had not ceased to be such Officer of the Company.

(d) Upon surrender of this Warrant Certificate in accordance with the foregoing provisions, the Company shall instruct the Transfer Agent to transfer to the

Holder appropriate evidence of ownership of any shares of Company Common Stock or other securities or property (including cash) to which the Holder is entitled, registered or otherwise placed in, or payable to the order of, such name or names as may be directed in writing by the Holder (subject to the terms hereof), and shall deliver such evidence of ownership and any other securities or property (including cash) to the Person or Persons entitled to receive the same, together with an amount in cash in lieu of any fraction of a share as provided in Section 2.03. Upon payment of the Exercise Price therefor, the Holder (or its designee) shall be deemed to own and have all of the rights associated with any Company Common Stock or other securities or property (including cash) to which it is entitled pursuant to this Warrant Certificate upon the surrender of this Warrant Certificate in accordance with the terms of this Warrant Certificate.

SECTION 1.05. Compliance with the Securities Act. (a) No Warrants or shares of Company Common Stock issued upon exercise thereof may be sold, transferred or otherwise disposed of (any such sale, transfer or other disposition, a “Sale”), except in compliance with the registration requirements of the Securities Act and any other applicable securities laws or pursuant to an exemption from registration under the Securities Act and any other applicable securities laws, or in a transaction not subject to such laws. The Warrants and the shares of Company Common Stock issuable upon exercise of the Warrants will have the benefit of certain registration rights under the Securities Act pursuant to a Registration Rights Agreement entered into by the Company on the Issuance Date.

(b) Shares of Company Common Stock issued upon exercise of Warrants under a Warrant Certificate while such Warrant Certificate bears the legend set forth on the first page of this Warrant Certificate as of the Issuance Date, shall, subject to Section 6.04, be in global form and bear the following legend:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO A REGISTRATION STATEMENT RELATING THERETO IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

ARTICLE II

Adjustments; Changes upon Certain Other Transactions

SECTION 2.01. Anti-dilution Adjustments. (a) The number of shares issuable upon exercise of the Warrants and the Exercise Price shall be subject to the following adjustments from time to time:

(i) Stock Dividends. In case the Company shall pay or make a dividend or other distribution on the Company Common Stock in

Company Common Stock, the number of shares of Company Common Stock issuable upon exercise of each Warrant, as in effect at the opening of business on the day following the date fixed for the determination of stockholders of the Company entitled to receive such dividend or distribution, shall be adjusted so that the Holder shall thereafter be entitled to receive the number of shares of Company Common Stock that the Holder would have owned or have been entitled to receive after the happening of the dividend or other distribution, had such Warrant been exercised immediately prior to the date fixed for such determination; and, in the event of any such adjustment, the Exercise Price, as in effect at the opening of business on the day following the date fixed for the determination of stockholders of the Company entitled to receive such dividend or other distribution, shall be adjusted by multiplying such Exercise Price by a fraction of which the numerator shall be the number of shares of Company Common Stock outstanding at the close of business on the date fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution. Such adjustments shall become effective immediately after the opening of business on the day following the date fixed for such determination.

(ii) Stock Purchase Rights. In case the Company shall issue to all holders of Company Common Stock options, warrants or other rights entitling them to subscribe for or purchase shares of Company Common Stock for a period expiring within 60 days from the date of issuance of such options, warrants or other rights at a price per share of Company Common Stock less than the Market Value on the date fixed for the determination of stockholders of the Company entitled to receive such options, warrants or other rights (other than pursuant to a dividend reinvestment, share purchase or similar plan), the number of shares of Company Common Stock issuable upon the exercise of each Warrant shall be adjusted by multiplying the number of shares of Company Common Stock issuable upon exercise of each Warrant, as in effect at the opening of business on the day following the date fixed for such determination, by a fraction, the numerator of which shall be the number of shares of Company Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Company Common Stock so offered for subscription or purchase, either directly or indirectly, and the denominator of which shall be the number of shares of Company Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Company Common Stock which the aggregate consideration expected to be received by the Company upon the exercise, conversion or exchange of such options, warrants or other rights (as determined in good faith by the Board, whose determination shall be conclusive and described in a Board Resolution) would purchase at such Market Value; and, in the event of any such adjustment, the Exercise Price in effect at the opening of business on

the day following the date fixed for such determination shall be adjusted by multiplying such Exercise Price by a fraction, the numerator of which shall be the number of shares of Company Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Company Common Stock which the aggregate consideration expected to be received by the Company upon the exercise, conversion or exchange of such options, warrants or other rights (as determined in good faith by the Board, whose determination shall be conclusive and described in a Board Resolution) would purchase at such Market Value and the denominator of which shall be the number of shares of Company Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Company Common Stock so offered for subscription or purchase, either directly or indirectly. Such adjustments shall become effective immediately after the opening of business on the day following the date fixed for such determination; provided, however, that no such adjustments shall be made if the Holder would be entitled to receive such options, warrants or other rights upon exercise at any time of the Warrants; provided, further, however, that if any of the foregoing options, warrants or other rights are only exercisable upon the occurrence of a Triggering Event, then no such adjustments shall be made until such Triggering Event occurs.

(iii) Stock Splits, Reverse Splits and Combinations. In case outstanding shares of Company Common Stock shall be subdivided, split or reclassified into a greater number of shares of Company Common Stock, then the number of shares of Company Common Stock issuable upon exercise of each Warrant in effect at the opening of business on the day following the date upon which such subdivision, split or reclassification becomes effective shall be adjusted so that the Holder shall thereafter be entitled to receive the number of shares of Company Common Stock that the Holder would have owned or would have been entitled to receive had such Warrant been exercised immediately prior to such subdivision, split or reclassification becoming effective; and, in the event of any such adjustment, the Exercise Price in effect at the opening of business on the day following the date upon which such subdivision, split or reclassification becomes effective shall be proportionately reduced. Conversely, in case outstanding shares of Company Common Stock shall be combined or reclassified into a smaller number of shares of Company Common Stock, then the number of shares of Company Common Stock issuable upon exercise of each Warrant in effect at the opening of business on the day following the date upon which such combination or reclassification becomes effective shall be adjusted so that the Holder shall thereafter be entitled to receive the number of shares of Company Common Stock that the Holder would have owned or would have been entitled to receive had such Warrant been exercised immediately prior to such combination or reclassification becoming effective; and, in the event of any such adjustment, the Exercise Price in effect at the opening of

business on the day following the date upon which such combination or reclassification becomes effective shall be proportionately increased. Such adjustments shall become effective immediately after the opening of business on the day following the date upon which such subdivision, split, reclassification or combination becomes effective.

(iv) Debt, Asset or Security Distributions. (A) In case the Company shall, by dividend or otherwise, distribute to all holders of Company Common Stock evidences of its indebtedness, assets or securities (but excluding any dividend or distribution of options, warrants or other rights referred to in paragraph (ii) of this Section 2.01(a), any dividend or distribution paid exclusively in cash, any dividend or distribution of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit in the case of a Spin-off referred to in the next subparagraph, or any dividend or distribution referred to in paragraph (i) of this Section 2.01(a)), then the number of shares of Company Common Stock issuable upon the exercise of each Warrant immediately prior to the close of business on the date fixed for the determination of stockholders of the Company entitled to receive such distribution shall be increased to a number determined by multiplying the number of shares of Company Common Stock issuable upon the exercise of such Warrant immediately prior to the date fixed for such determination by a fraction, the numerator of which shall be the Market Value on the date fixed for such determination plus the fair market value (as determined in good faith by the Board, whose determination shall be conclusive and described in a Board Resolution) of the portion of the assets or evidences of indebtedness so distributed applicable to one share of Company Common Stock and the denominator of which shall be the Market Value on the date fixed for such determination; and, in the event of any such adjustment, the Exercise Price shall be reduced by multiplying the Exercise Price in effect immediately prior to the close of business on the date fixed for the determination of stockholders of the Company entitled to receive such distribution by a fraction, the numerator of which shall be the Market Value on the date fixed for such determination and the denominator of which shall be such Market Value plus the fair market value (as determined in good faith by the Board, whose determination shall be conclusive and described in a Board Resolution) of the portion of the assets or evidences of indebtedness so distributed applicable to one share of Company Common Stock. Such adjustments shall become effective immediately prior to the opening of business on the day following the date fixed for the determination of stockholders of the Company entitled to receive such distribution. In any case in which this subparagraph (iv)(A) is applicable, subparagraph (iv)(B) of this Section 2.01(a)(iv) shall not be applicable.

(B) In the case of a Spin-off, the number of shares of Company Common Stock issuable upon the exercise of each Warrant

immediately prior to the close of business on the date fixed for determination of stockholders of the Company entitled to receive such distribution shall be increased to a number determined by multiplying the number of shares of Company Common Stock issuable upon the exercise of such Warrant immediately before the close of business on such date by a fraction, the numerator of which shall be the Market Value plus the fair market value (as determined in good faith by the Board, whose determination shall be conclusive and described in a Board Resolution) of the portion of those shares of Capital Stock or similar equity interests so distributed applicable to one share of Company Common Stock, and the denominator of which shall be the Market Value; and, in the event of any such adjustment, the Exercise Price in effect immediately prior to the close of business on the date fixed for determination of stockholders of the Company entitled to receive such distribution shall be reduced by multiplying the Exercise Price by a fraction, the numerator of which shall be the Market Value and the denominator of which shall be the Market Value plus the fair market value (as determined in good faith by the Board, whose determination shall be conclusive and described in a Board Resolution) of the portion of those shares of Capital Stock or similar equity interests so distributed applicable to one share of Company Common Stock. Any adjustments under this subparagraph (iv)(B) will occur on the date that is the earlier of (1) the tenth Trading Day from, and including, the effective date of the Spin-off and (2) the date of the Initial Public Offering of the securities being distributed in the Spin-off, if that Initial Public Offering is effected simultaneously with the Spin-off.

(v) Tender Offers. In the case that a tender or exchange offer made by the Company or any Subsidiary of the Company for all or any portion of the Company Common Stock shall expire and such tender or exchange offer (as amended through the expiration thereof) shall require the payment to stockholders of the Company (based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of Purchased Shares) of aggregate consideration having a fair market value (as determined in good faith by the Board, whose determination shall be conclusive and described in a Board Resolution) per share of Company Common Stock that exceeds the Closing Sale Price of the Company Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, then, immediately prior to the opening of business on the day after the date of the last time (the "Expiration Time") tenders or exchanges could have been made pursuant to such tender or exchange offer (as amended through the expiration thereof), the number of shares of Company Common Stock issuable upon the exercise of each Warrant immediately prior to the close of business on the date of the Expiration Time shall be increased to a number determined by multiplying the

number of shares of Company Common Stock issuable upon exercise of each Warrant immediately prior to the close of business on the date of the Expiration Time by a fraction (A) the numerator of which shall be equal to (x) the product of (I) the Market Value on the date of the Expiration Time and (II) the number of shares of Company Common Stock outstanding (including any tendered or exchanged shares) on the date of the Expiration Time less the number of all shares validly tendered or exchanged, not withdrawn and accepted for payment on the date of the Expiration Time (such validly tendered or exchanged shares, up to any such maximum, being referred to as the “Purchased Shares”) plus (y) the amount of cash plus the fair market value (determined as aforesaid) of the aggregate consideration payable to stockholders of the Company pursuant to the tender or exchange offer (assuming the acceptance, up to any maximum specified in the terms of the tender or exchange offer, of Purchased Shares), and (B) the denominator of which shall be equal to the product of (x) the Market Value on the date of the Expiration Time and (y) the number of shares of Company Common Stock outstanding (including any tendered or exchanged shares) on the date of the Expiration Time; and, in the event of any such adjustment, the Exercise Price shall be reduced by multiplying the Exercise Price immediately prior to the close of business on the date of the Expiration Time by a fraction (A) the numerator of which shall be equal to the product of (x) the Market Value on the date of the Expiration Time and (y) the number of shares of Company Common Stock outstanding (including any tendered or exchanged shares) on the date of the Expiration Time, and (B) the denominator of which shall be equal to (x) the product of (I) the Market Value on the date of the Expiration Time and (II) the number of shares of Company Common Stock outstanding (including any tendered or exchanged shares) on the date of the Expiration Time less the number of Purchased Shares plus (y) the amount of cash plus the fair market value (determined as aforesaid) of the aggregate consideration payable to stockholders of the Company pursuant to the tender or exchange offer (assuming the acceptance, up to any maximum specified in the terms of the tender or exchange offer, of Purchased Shares).

(b) De Minimis Adjustments. Notwithstanding anything herein to the contrary, no adjustment under this Section 2.01 need be made to the number of shares issuable upon exercise of a Warrant or the Exercise Price unless such adjustment would require an increase or decrease of at least 1.0% of the number of shares issuable upon exercise of the Warrants or the Exercise Price immediately prior to the making of such adjustment. Any lesser adjustment shall be carried forward and shall be made at the time of and together with the next subsequent adjustment, if any, which, together with any adjustment or adjustments so carried forward, shall result in an increase or decrease of at least 1.0% of the number of shares issuable upon exercise of a Warrant or the Exercise Price immediately prior to the making of such adjustment. No adjustment to the Exercise Price under this Section 2.01 shall be made if such adjustment will result in an Exercise Price that is less than the par value of the Company Common Stock. All adjustments to

the number of shares issuable upon exercise of the Warrants or the Exercise Price shall be calculated to the nearest 1/10,000th of a share of Company Common Stock (or if there is not a nearest 1/10,000th of a share to the next lower 1/10,000th of a share) or the nearest \$0.0001 (or if there is not a nearest \$0.0001 to the next lower \$0.0001), as the case may be.

(c) Tax-Related Adjustments. The Company may make such increases in the number of shares issuable upon exercise of the Warrants or reductions in the Exercise Price, in addition to those required by this Section 2.01, as the Board considers advisable in order to avoid or diminish any income tax to any holders of shares of Company Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax purposes. In the event the Company elects to make such an increase in the number of shares issuable upon exercise of the Warrants or such a reduction in the Exercise Price, the Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder, if and to the extent that such laws and regulations are applicable in connection with the increase in the number of shares issuable upon exercise of the Warrants or the reduction in the Exercise Price.

(d) Stockholder Rights Plans. Upon exercise of the Warrants, to the extent that the Holder receives Company Common Stock, the Holder shall receive, in addition to the shares of Company Common Stock and any cash for fractional shares in accordance with Section 2.03, if any, the rights issued under any future stockholder rights plan the Company may establish whether or not such rights are separated from the Company Common Stock prior to exercise. A distribution of rights pursuant to any stockholder rights plan will not result in an adjustment to the number of shares issuable upon exercise of the Warrants or the Exercise Price pursuant to Section 2.01(a)(ii) or 2.01(a)(iv), provided that the Company has provided for the Holder to receive such rights upon exercise.

(e) Reversal of Adjustment. If the Company shall take a record of the holders of Company Common Stock for the purpose of entitling them to receive a dividend or other distribution, and shall thereafter (and before the dividend or distribution has been paid or delivered to stockholders) legally abandon its plan to pay or deliver such dividend or distribution, then thereafter no adjustment in the number of shares issuable upon exercise of the Warrants or the Exercise Price then in effect shall be required by reason of the taking of such record.

(f) Exceptions to Adjustment. The applicable number of shares issuable upon exercise of the Warrants and Exercise Price shall not be adjusted:

(i) upon the issuance of any shares of Company Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Company Common Stock under any such plan;

(ii) upon the issuance of any shares of Company Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its Subsidiaries;

(iii) upon the issuance of any shares of Company Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the Issue Date;

(iv) for a change in the par value of the Company Common Stock;

(v) for accrued and unpaid dividends on the Company's Series A Convertible Perpetual Preferred Stock, par value \$0.001 per share; or

(vi) for the 4-for-1 reverse stock split consummated on the Issuance Date pursuant to the Investment Agreement.

SECTION 2.02. Recapitalizations, Reclassifications and Changes in the Company's Stock. In the event of any reclassification of outstanding shares of Company Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value), or any consolidation or merger of the Company with or into another Person (other than with a Subsidiary of the Company) or any merger of another Person with or into the Company (other than a consolidation or merger in which the Company is the resulting or surviving Person and that does not result in any reclassification or change of outstanding Company Common Stock), or any sale or other disposition to another Person of all or substantially all of the assets of the Company (computed on a consolidated basis) (any of the foregoing, a "Transaction"), upon exercise of the Warrants, the Holder will be entitled to receive the kind and amount of securities (of the Company or another issuer), cash and other property receivable upon such Transaction by a holder of the number of shares of Company Common Stock issuable upon exercise of the Warrants immediately prior to such Transaction, after giving effect to any adjustment event or, in the event holders of Company Common Stock have the opportunity to elect the form of consideration to be received in any Transaction, the weighted average of the forms and amounts of consideration received by the holders of Company Common Stock. In the event that at any time, as a result of an adjustment made pursuant to this Warrant Certificate, the Holder shall become entitled upon exercise to any securities other than, or in addition to, shares of Company Common Stock, thereafter the number or amount of such other securities so receivable upon exercise and the Exercise Price therefor shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Company Common Stock set forth in this Warrant Certificate.

SECTION 2.03. Fractional Shares. No fractional shares of Company Common Stock shall be issued to the Holder upon exercise of any Warrant. In lieu of any fraction of a share of Company Common Stock that would otherwise be issuable upon exercise of the aggregate number of Warrants exercised by the Holder, the Holder shall have the right to receive an amount in cash (computed to the nearest cent) equal to

the same fraction of the Closing Sale Price on the Trading Day next preceding the date of exercise.

SECTION 2.04. Notice of Adjustment. Whenever the number of shares of Company Common Stock or other stock or property issuable upon the exercise of each Warrant or the Exercise Price is adjusted, as herein provided, the Company shall (i) compute such adjustment in accordance with this Article II and prepare and transmit to the Transfer Agent an Officer's Certificate setting forth the adjustment, the method of calculation thereof in reasonable detail and the facts requiring such adjustment and upon which such adjustment is based and (ii) as soon as practicable following the occurrence of an event that requires an adjustment pursuant to this Article II (or if the Company is not aware of such occurrence, as soon as practicable after becoming so aware), the Company or, at the request and expense of the Company, the Transfer Agent shall provide a written notice to the holders of Warrants (including the Holder) of the occurrence of such event and a statement setting forth in reasonable detail the method by which the adjustment was determined and setting forth the adjusted amount.

ARTICLE III

Warrant Transfer Books

SECTION 3.01. Warrant Transfer Books. (a) The Company shall keep at its principal place of business a register in which the Company shall provide for the registration of Warrant Certificates and of any exchanges of Warrant Certificates as herein provided.

(b) At the option of the Holder, Warrant Certificates may be exchanged at such office and upon payment of the charges hereinafter provided. Whenever any Warrant Certificates are so surrendered for exchange, the Company shall execute and deliver the Warrant Certificates that the Holder is entitled to receive.

(c) All Warrant Certificates issued upon any registration of transfer or exchange of Warrant Certificates shall be the valid obligations of the Company, evidencing the same obligations, and entitled to the same benefits, as the Warrant Certificates surrendered for such registration of transfer or exchange.

(d) Every Warrant Certificate surrendered for registration of exchange shall (if so required by the Company) be duly endorsed, or be accompanied by a written instrument of transfer in form reasonably satisfactory to the Company, duly executed by the Holder or his attorney duly authorized in writing.

(e) No service charge shall be payable by the Holder for any registration of transfer or exchange of this Warrant Certificate, and the Company shall pay any taxes or other governmental charges that may be imposed in connection with any registration of exchange of Warrant Certificates.

(f) This Warrant Certificate when duly endorsed in blank shall be deemed negotiable and when this Warrant Certificate shall have been so endorsed, the Holder

hereof may be treated by the Company and all other Persons dealing therewith as the absolute owner hereof for any purpose and as the Person entitled to exercise the rights represented hereby.

ARTICLE IV

Voting

SECTION 4.01. No Voting Rights. Prior to the exercise of the Warrants, the Holder, in its capacity as such, shall not be entitled to any rights of a stockholder of the Company, including the right to vote or to consent with respect to any matter.

ARTICLE V

Covenants

SECTION 5.01. Reservation of Company Common Stock for Issuance on Exercise of Warrants. The Company covenants that it will at all times reserve and keep available, free from preemptive rights and solely for the purpose of issue upon exercise of the Warrants as herein provided, out of its authorized but unissued Company Common Stock, such number of shares of Company Common Stock as shall then be issuable upon the exercise of all Warrants issuable hereunder and all other Warrant Certificates. The Company covenants that all shares of Company Common Stock issuable upon exercise of the Warrants shall, upon such issue, be duly and validly issued and fully paid and non-assessable, free from preemptive rights and free from all taxes, liens, charges and security interests with respect to the issuance thereof.

SECTION 5.02. Notice of Dividends. At any time when the Company declares any dividend or other distribution on the Company Common Stock, it shall give notice to the holders of all the then outstanding Warrants (including the Holder) of any such declaration not less than 15 days prior to the related record date for payment of the dividend or distribution so declared.

SECTION 5.03. HSR Act Compliance. If the Holder determines that a notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder (the "HSR Act"), is required in connection with the exercise of the Warrants represented by this Warrant Certificate, the Company shall reasonably cooperate with the Holder by (i) promptly effecting all necessary notifications and other filings under the HSR Act that are required to be made by the Company and (ii) responding as promptly as reasonably practicable to all inquiries or requests received from the United States Federal Trade Commission (the "FTC"), the Department of Justice (the "DOJ") or any other governmental authority in connection with such notifications and other filings. For the avoidance of doubt, nothing in this Section 5.03 shall require that the Company or any of its Subsidiaries commit to any divestiture, license or hold separate or similar arrangement with respect to the business, assets or properties of the Company or any of its Subsidiaries. Any such notifications and responses by the Company will be in full compliance with the

requirements of the HSR Act. The Company shall, to the extent legally permissible, keep the Holder reasonably apprised of the status of any communications with, and any inquiries or requests for additional information from, the FTC, the DOJ or such other governmental authority. The Company shall pay the filing fees in connection with the above filings, and shall otherwise each bear its costs and expenses in connection with the preparation of such filings and responses to inquiries or requests.

SECTION 5.04. Certain Other Events. If any event occurs as to which the provisions of Article II are not strictly applicable or, if strictly applicable, would not fairly protect the rights of the holders of the Warrants in accordance with the essential intent and principles of such provisions, then the Board shall make such adjustments in the application of such provisions, in accordance with such essential intent and principles, as shall be reasonably necessary, in the good faith judgment of the Board, to protect such purchase rights as aforesaid.

ARTICLE VI

Miscellaneous

SECTION 6.01. Tax Matters. (a) The Company shall pay all transfer, stamp and other similar taxes due with respect to the issuance or delivery of shares of Company Common Stock or other securities or property upon exercise of the Warrants; provided, however, that the Company shall not be required to pay any tax that may be payable with respect to any transfer involved in the issuance or delivery of shares of Company Common Stock or other securities or property in a name other than that of the Holder, and the Holder shall be responsible for any such tax.

SECTION 6.02. Surrender of Warrant Certificate. This Warrant Certificate, if surrendered for exercise or purchase, shall be promptly canceled by the Company and shall not be reissued by the Company. The Company shall destroy such canceled Warrant Certificate.

SECTION 6.03. Mutilated, Destroyed, Lost or Stolen Warrant Certificate. (a) If (i) this Warrant Certificate is mutilated and surrendered to the Company or (ii) the Company receives evidence to its satisfaction of the destruction, loss or theft of this Warrant Certificate, and there is delivered to the Company such appropriate affidavit of loss, applicable processing fee and indemnity as may be reasonably required by the Company to save it harmless, then, in the absence of notice to the Company that this Warrant Certificate has been acquired by a bona fide purchaser, the Company shall execute and deliver, in exchange for this Warrant Certificate if mutilated or in lieu of this Warrant Certificate if destroyed, lost or stolen, a new Warrant Certificate of like tenor and for a like aggregate number of Warrants.

(b) Upon the issuance of any new Warrant Certificate under this Section 6.03, the Company shall pay any taxes or other governmental charges that may be imposed in relation thereto and other expenses in connection therewith.

(c) Every new Warrant Certificate executed and delivered pursuant to this Section 6.03 in lieu of any destroyed, lost or stolen Warrant Certificate shall constitute an original contractual obligation of the Company, whether or not the destroyed, lost or stolen Warrant Certificate shall be at any time enforceable by anyone.

(d) The provisions of this Section 6.03 are exclusive and shall preclude (to the extent lawful) all other rights or remedies with respect to the replacement of a mutilated, destroyed, lost or stolen Warrant Certificate.

SECTION 6.04. Removal of Legends.

(a) In the event (i) the transfer of the Warrants or the shares of Company Common Stock issued upon exercise of the Warrants are registered under the Securities Act or (ii) there is delivered to the Company such satisfactory evidence, which may include an Opinion of Counsel licensed to practice law in the State of New York, as may be reasonably required by the Company, that such Warrants or shares are not “restricted securities” within the meaning of Rule 144 under the Securities Act, the Company shall, or shall direct the Transfer Agent to and the Transfer Agent shall, upon surrender by the Holder of this Warrant Certificate or certificates evidencing such shares of Company Common Stock, as applicable, to the Company or the Transfer Agent, exchange such certificates for certificates without the legend set forth on the first page of this Warrant Certificate as of the Issuance Date or referred to in Section 1.05(b), as applicable.

(b) In order to effect a Sale of Warrants or shares of Company Common Stock issued upon exercise of the Warrants (other than pursuant to an effective registration statement under the Securities Act), the Holder shall (i) give written notice to the Company of its intention to effect such Sale, which notice shall describe the manner and circumstances of the proposed transaction in reasonable detail and shall include a certification by the Holder to the effect that such proposed Sale may be effected without registration under the Securities Act or under applicable state securities laws, and (ii) provide such additional certifications of the Holder or its transferee or Opinions of Counsel (which shall be reasonably satisfactory to the Company) as the Company may reasonably request solely in order to confirm the availability of the applicable exemption from the registration requirements of applicable securities laws. The Company will refuse to register any Sale of Warrants or shares of Company Common Stock issued upon exercise of the Warrants that is not made in accordance with the provisions of the legend set forth on the first page of this Warrant Certificate as of the Issuance Date or referred to in Section 1.05(b), as applicable; provided that the provisions of this Section 6.04(b) shall not be applicable to any such security that does not bear any such legend.

SECTION 6.05. Notices. Any notice, demand or delivery to the Company authorized by this Warrant Certificate shall be sufficiently given or made when mailed if sent by first-class mail, postage prepaid, addressed to the Company as follows:

XPO Logistics, Inc.
3399 South Lakeshore Drive, Suite 225
Saint Joseph, MI 49085
Facsimile: 269-695-7458

Attention: Secretary of the Board of Directors

SECTION 6.06. Applicable Law. This Warrant Certificate and each Warrant represented hereby and all rights arising hereunder shall be construed in accordance with the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

SECTION 6.07. Persons Benefiting. This Warrant Certificate shall be binding upon and inure to the benefit of the Company and its successors, assigns, beneficiaries, executors and administrators, and the Holder from time to time of the Warrants represented hereby. Except as otherwise expressly provided herein, nothing in this Warrant Certificate is intended or shall be construed to confer upon any Person, other than the Company and the Holder from time to time of the Warrants represented hereby, any right, remedy or claim under or by reason of this Warrant Certificate or any part hereof.

SECTION 6.08. Supplements or Amendments. This Warrant Certificate may not be supplemented or amended without the written approval of both the Holder and the Company.

SECTION 6.09. Headings. The descriptive headings of the several Articles and Sections of this Warrant Certificate are inserted for convenience and shall not control or affect the meaning or construction of any of the provisions hereof.

SECTION 6.10. Copies of Agreements. Copies of the Investment Agreement and the Registration Rights Agreement referred to in Section 1.05(a) are on file at the principal place of business of the Company and may be obtained by writing to the Company at the address set forth in Section 6.05.

ARTICLE VII

Definitions

As used in this Warrant Certificate, the following terms shall have the following meanings:

“Board” means the board of directors of the Company.

“Board Resolution” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board and to

be in full force and effect on the date of such certification, and delivered to the Transfer Agent.

“Business Day” means any day other than a Saturday or Sunday or any other day on which banks in the City of New York are authorized or required by law or executive order to close.

“Capital Stock” of any Person means any and all shares, interests, participations or other equivalents however designated of corporate stock or other equity participations, including partnership interests, whether general or limited, of such Person and any rights (other than debt securities convertible or exchangeable into an equity interest), warrants or options to acquire an equity interest in such Person.

The “Closing Sale Price” of the Company Common Stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported on the over-the-counter “Pink Sheets” market or, if the Company Common Stock is listed on a national securities exchange, the principal national securities exchange on which the Company Common Stock is traded. In the absence of such a quotation, the Closing Sale Price of the Company Common Stock will be an amount determined in good faith by the Board to be the fair market value of such Company Common Stock, and such determination shall be conclusive.

“Company” has the meaning set forth in the introduction to this Warrant Certificate, and its successors and assigns.

“Company Common Stock” has the meaning set forth in the introduction to this Warrant Certificate.

“DOJ” has the meaning set forth in Section 5.03.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Exercise Price” has the meaning set forth in the introduction to this Warrant Certificate.

“Expiration Date” means the tenth anniversary of the Issuance Date.

“Expiration Time” has the meaning set forth in Section 2.01(a)(v).

“FTC” has the meaning set forth in Section 5.03.

“Holder” means the initial Holder of this Warrant Certificate and any permitted assignee or transferee thereof.

“HSR Act” has the meaning set forth in Section 5.03.

“including” means “including, without limitation”.

“Initial Public Offering” means, in the event of a Spin-off, the first time securities of the same class or type as the securities being distributed in the Spin-off are bona fide offered to the public for cash.

“Investment Agreement” has the meaning set forth in the introduction to this Warrant Certificate.

“Issuance Date” means September 2, 2011.

“Market Value” means, with respect to any date of determination, the average Closing Sale Price of the Company Common Stock for a five consecutive Trading Day period preceding the earlier of (i) the day preceding the date of determination and (ii) the day before the “ex date” with respect to the issuance or distribution requiring such computation. For purposes of this definition, the term “ex date”, when used with respect to any issuance or distribution, means the first date on which the Company Common Stock trades, regular way, on the over-the-counter “Pink Sheets” market or, if the Company Common Stock is listed on a national securities exchange, the principal national securities exchange on which the Company Common Stock is traded at that time, without the right to receive the issuance or distribution.

“Officer” means the Chairman of the Board, President, Chief Executive Officer, any Vice President, the Chief Financial Officer, the Chief Accounting Officer, the Treasurer, any Assistant Treasurer, the Controller, any Assistant Controller, the Secretary or any Assistant Secretary of the Company.

“Officer’s Certificate” means a certificate signed by two Officers.

“Opinion of Counsel” means a written opinion from legal counsel who is acceptable to the Company or the Transfer Agent. The counsel may be an employee of or counsel to the Company or the Transfer Agent.

“Person” means any natural person, corporation, limited liability company, partnership, joint venture, trust, business association, governmental entity or other entity.

“Purchased Shares” has the meaning set forth in Section 2.01(a)(v).

“Sale” has the meaning set forth in Section 1.05(a).

“Securities Act” means the Securities Act of 1933, as amended.

“Spin-off” means a dividend or other distribution of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Company.

“Subsidiary” of any Person means any other Person (i) more than 50% of whose outstanding shares or securities representing the right to vote for the election of directors or other managing authority of such other Person are, now or hereafter, owned or controlled, directly or indirectly, by such first Person, but such other Person shall be deemed to be a Subsidiary only so long as such ownership or control exists, or (ii) which does not have outstanding shares or securities with such right to vote, as may be the case in a partnership, joint venture or unincorporated association, but more than 50% of whose ownership interest representing the right to make the decisions for such other Person is, now or hereafter, owned or controlled, directly or indirectly, by such first Person, but such other Person shall be deemed to be a Subsidiary only so long as such ownership or control exists.

“Trading Day” means a day during which trading in securities generally occurs on the over-the-counter “Pink Sheets” market or, if the Company Common Stock is listed on a national securities exchange, the principal national securities exchange on which the Company Common Stock is traded.

“Transaction” has the meaning set forth in Section 2.02.

“Transfer Agent” means Computershare Trust Company, N.A. unless and until a successor is selected by the Company, and then such successor.

“Triggering Event” means a specified event the occurrence of which entitles the holders of rights, options or warrants to exercise such rights, options or warrants.

“Warrants” has the meaning set forth in the introduction to this Warrant Certificate.

XPO LOGISTICS, INC.,

by _____

Name:

Title:

EXERCISE SUBSCRIPTION FORM

(To be executed only upon exercise of Warrant)

To: XPO Logistics, Inc. (the "Company")

The undersigned irrevocably exercises _____ of the Warrants represented by the Warrant Certificate for the purchase of one share (subject to adjustment in accordance with the Warrant Certificate) of Company Common Stock, par value \$0.001 per share, for each such Warrant and herewith makes payment of \$ _____ (such payment being by bank wire transfer in immediately available funds), all at the Exercise Price and on the terms and conditions specified in the Warrant Certificate, surrenders this Warrant Certificate and all right, title and interest therein to the Company and directs that the shares of Company Common Stock deliverable upon the exercise of such Warrants be registered in the name and delivered at the address specified below.

Date:

(Signature of Owner)*

(Street Address)

(City)

(State)

(Zip Code)

Securities to be issued to:

Please insert social security or identifying number:

Name:

Street Address:

City, State and Zip Code:

* The signature must correspond with the name as written upon the face of the Warrant Certificate in every particular, without alteration or any change whatsoever.

REGISTRATION RIGHTS AGREEMENT

by and among

JACOBS PRIVATE EQUITY, LLC,

**THE OTHER HOLDERS OF REGISTRABLE SECURITIES AND
DESIGNATED SECURED LENDERS**

and

XPO LOGISTICS, INC.

Dated as of September 2, 2011

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SCHEDULE I Initial Holders	

REGISTRATION RIGHTS AGREEMENT dated as of September 2, 2011 (this "Agreement"), by and among JACOBS PRIVATE EQUITY, LLC (the "Investor Representative"), each of the other Holders (as defined below), each Designated Secured Lender (as defined below) and XPO LOGISTICS, INC., a Delaware corporation (the "Company").

WITNESSETH:

WHEREAS, this Agreement is entered into pursuant to that certain Investment Agreement dated as of June 13, 2011 (the "Investment Agreement"), by and among the Investor Representative, each of the other Initial Holders party thereto and the Company, pursuant to which the execution and delivery of this Agreement is a condition to the closing of the transactions contemplated thereby.

NOW, THEREFORE, in consideration of the foregoing, the Investor Representative, the other Initial Holders and the Company hereby agree as follows:

ARTICLE I

Definitions

As used in this Agreement, the following terms shall have the following meanings:

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Board" means the Board of Directors of the Company.

"Company" has the meaning set forth in the preamble to this Agreement, and its successors and permitted assigns.

"Company Common Stock" means the common stock, par value \$0.001 per share, of the Company.

"Demand Registration" has the meaning set forth in Section 2.01(a).

“Demand Registration Statement” has the meaning set forth in Section 2.01(a).

“Designated Secured Lender” means any secured lender or other pledgee of a Holder to whom any Registrable Securities of such Holder are pledged as collateral or otherwise subjected to a lien to secure an obligation of such Holder, and with respect to which the applicable Holder has provided written notice to the Company that such person shall constitute a “Designated Secured Lender” for purposes of this Agreement.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Expenses” means all expenses incurred by the Company, the Holders and any Designated Secured Lenders in effecting any registration pursuant to this Agreement, including all registration and filing fees, printing expenses, reasonable fees and disbursements of one counsel selected by the Investor Representative to represent all Holders and Designated Secured Lenders of Registrable Securities included in such registration, blue sky fees and expenses and expenses of the Company’s independent accountants in connection with any regular or special reviews or audits incident to or required by any such registration, but excluding all underwriting discounts and selling commissions applicable to the sale of the applicable Registrable Securities.

“Holder” means each holder of Registrable Securities, including the Initial Holders and any assignees or transferees thereof (including any pledgees who acquire and hold Registrable Securities upon foreclosure of the underlying obligation).

“including” means “including, without limitation”.

“Initial Holders” means the persons set forth on Schedule I to this Agreement.

“Investment Agreement” has the meaning set forth in the preamble to this Agreement.

“Investor Representative” has the meaning set forth in the preamble to this Agreement.

“Majority Holders” has the meaning set forth in Section 2.01(a).

“Maximum Number of Shares” has the meaning set forth in Section 2.01(c).

“person” means any natural person, corporation, limited liability company, partnership, joint venture, trust, business association, governmental entity or other entity.

“Piggyback Registration” has the meaning set forth in Section 2.02(a).

“Preferred Stock” means the shares of Series A Convertible Perpetual Preferred Stock of the Company issued pursuant to the Investment Agreement.

“Prospectus” means the prospectus included in any Registration Statement, as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any of the Registrable Securities covered by such Registration Statement and by all other amendments and supplements to the prospectus, including post-effective amendments and all material incorporated by reference in such prospectus.

“registered and registration” shall refer to a registration effected by preparing and (a) filing a Registration Statement in compliance with the Securities Act and applicable rules and regulations thereunder, and the declaration of or automatic effectiveness of such Registration Statement or (b) filing a Prospectus and/or prospectus supplement in respect of an appropriate effective Registration Statement on Form S-3.

“Registrable Securities” means shares of Preferred Stock, Warrants and shares of Company Common Stock or other securities issued or issuable upon conversion of the Preferred Stock or upon exercise of the Warrants. Registrable Securities shall continue to be Registrable Securities (whether they continue to be held by the Initial Holders or they are transferred to other persons) until (i) they are sold pursuant to an effective Registration Statement under the Securities Act; or (ii) they may be sold by their holder without registration under the Securities Act pursuant to Rule 144 without limitation thereunder on volume or manner of sale or other restrictions under Rule 144.

“Registration Rights” means the rights of Holders set forth in Article II to have Registrable Securities registered under the Securities Act for sale under one or more effective Registration Statements.

“Registration Statement” means any registration statement filed by the Company under the Securities Act pursuant to the Registration Rights, including the Prospectus, any amendments and supplements to such registration statement, including post-effective amendments, and all exhibits and all material incorporated by reference in such registration statement.

“Rule 144 and Rule 415” mean, in each case, such rule promulgated under the Securities Act (or any successor provision), as such rule may be amended from time to time.

“Scheduled Black-Out Period” means, with respect to any fiscal quarter, the period from and including the last day of such fiscal quarter to and including the day that is one day after the day on which the Company publicly releases its earnings for such fiscal quarter.

“SEC” means the Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended.

“Warrants” means the warrants to purchase Company Common Stock issued pursuant to the Investment Agreement.

ARTICLE II

Registration Rights

SECTION 2.01. Demand Registration Rights. (a) Subject to the provisions hereof, any Holder or group of Holders holding Registrable Securities constituting, convertible into or exercisable for, in the aggregate, no less than a majority of the total number of shares of Company Common Stock that either constitute Registrable Securities or are issuable upon conversion of Preferred Stock or exercise of Warrants that constitute Registrable Securities (the "Majority Holders") may, at any time from and after the date hereof, request registration for resale under the Securities Act of all or part of the Registrable Securities (a "Demand Registration") by giving written notice thereof to the Company (which request shall specify the number of shares of Registrable Securities to be offered by each Holder and/or its Designated Secured Lenders and whether such Registration Statement shall be a "shelf" Registration Statement under Rule 415 promulgated under the Securities Act). The Company shall give written notice of any request for a Demand Registration, which request complies with this Section 2.01(a), within five days after the receipt thereof, to each Holder who did not initially join in such request. Within 10 days after receipt of such notice, any such Holder may request in writing that all or part of its Registrable Securities be included in such Demand Registration, and the Company shall include in the Demand Registration the Registrable Securities of each such Holder requested to be so included, subject to the provisions of Section 2.01(c). Each such request shall specify the number of shares of Registrable Securities to be offered by such Holder and/or its Designated Secured Lenders. If requested by any Holder, the Company shall include as a selling security holder in the applicable Registration Statement any Designated Secured Lender of the applicable Holder with respect to the Registrable Securities of the applicable Holder, subject to Section 3.04. Subject to Section 2.01(c) below, upon receipt of a Demand Registration notice in accordance herewith, the Company shall use reasonable best efforts (i) to file a Registration Statement (which shall be a "shelf" Registration Statement under Rule 415 promulgated under the Securities Act if requested pursuant to the request of the Majority Holders pursuant to the first sentence of this Section 2.01(a)) registering for resale such number of Registrable Securities as requested to be so registered as promptly as reasonably practicable and in any event within 30 days, in the case of a registration statement on Form S-3, or 45 days, in the case of a registration statement on Form S-1, after the request of the Majority Holders therefor (such Registration Statement, a "Demand Registration Statement") and (ii) to cause such Demand Registration Statement to be declared effective by the SEC as promptly as reasonably practicable thereafter. Notwithstanding the foregoing, the Company shall not be required to effect a registration pursuant to this Section 2.01(a): (A) with respect to securities that are not Registrable Securities; (B) during any Scheduled Black-Out Period; (C) if the aggregate offering price of the Registrable Securities to be offered is less than \$5,000,000, unless the Registrable Securities to be offered constitute all of the then-outstanding Registrable Securities; or (D) within 90 days after the effective date of a prior Demand Registration Statement. If permitted under the Securities Act, such Demand Registration Statement shall be one that is automatically effective upon filing.

(b) The Holders shall be entitled to a total of three Demand Registrations. A Registration Statement shall not count as a permitted Demand Registration unless and until it has become effective and Holders are able to register at least 75% of the Registrable Securities requested by the Holders to be included in such registration. A Demand Registration shall not count against the number of such registrations set forth in the second preceding sentence if (i) after the applicable Demand Registration Statement has become effective, such Demand Registration Statement or the related offer, sale or distribution of Registrable Securities thereunder becomes the subject of any stop order, injunction or other order or restriction imposed by the SEC or any other governmental agency or court for any reason attributable to the Company and such interference is not thereafter eliminated so as to permit the completion of the contemplated distribution of Registrable Securities or (ii) in the case of an underwritten offering, the conditions specified in the related underwriting agreement, if any, are not satisfied or waived for any reason attributable to the Company or for any reason not attributable to the selling Holder or Holders or their applicable Designated Secured Lenders, and as a result of any such circumstances described in clause (i) or (ii), less than all of the Registrable Securities covered by the Demand Registration Statement are sold by the selling Holder or Holders or their applicable Designated Secured Lenders pursuant to the Demand Registration Statement.

(c) The Company may include in a Demand Registration Statement shares of Company Common Stock for sale for its own account or for the account of other security holders of the Company. If such Demand Registration Statement is in respect of an underwritten offering and the managing underwriters of the requested Demand Registration advise the Company and the Investor Representative that in their reasonable opinion the number of shares of Company Common Stock or other securities proposed to be included in the Demand Registration Statement exceeds the number of shares of Company Common Stock or other securities that can be sold in such underwritten offering without materially delaying or jeopardizing the success of the offering (including the offering price per share) (such maximum number of shares, the "Maximum Number of Shares"), the Company will include in such Demand Registration Statement only such number of shares of Company Common Stock and other securities that in the reasonable opinion of the managing underwriters can be sold without materially delaying or jeopardizing the success of the offering (including the offering price per share), which shares of Company Common Stock and other securities will be so included in the following order of priority: (i) first, the Registrable Securities of all Holders requested to be included therein, pro rata on the basis of the aggregate number of shares of Company Common Stock represented (including upon exercise or conversion) by the Registrable Securities requested to be included by each such Holder; (ii) second, the shares of Company Common Stock and other securities the Company proposes to sell; and (iii) third, any other shares of Company Common Stock and other securities that have been requested to be so included by any other person.

(d) If any of the Registrable Securities covered by a Demand Registration are to be sold in an underwritten offering, the Company and the Investor Representative shall mutually agree upon the selection of the managing underwriter or underwriters. If the Company and the Investor Representative are unable to agree on the managing

underwriter or underwriters within a reasonable amount of time, the Company and the Investor Representative shall each select a managing underwriter and such underwriters shall serve as joint managing underwriters in respect of such offering.

(e) Notwithstanding the foregoing, if the Board determines in its good faith judgment that the filing of a Demand Registration Statement would require the disclosure of material non-public information concerning the Company that at the time is not, in the good faith judgment of the Board, in the best interests of the Company to disclose and is not, in the opinion of the Company's counsel, otherwise required to be disclosed, then the Company shall have the right to defer such filing for the period during which such registration would require such disclosure; provided, however, that (x) the Company may not defer such filing for a period of more than 45 days per notice, (y) the total number of days that any such deferrals may be in effect in any 12-month period shall not exceed 90 days in the aggregate, less (without duplication) the number of days during such 12-month period in which any suspensions pursuant to Section 3.03(ii) are or have been in effect, and (z) the Company shall not exercise its right to defer a Demand Registration more than three times in the aggregate in any 12-month period, less the number of suspensions pursuant to Section 3.03(ii) that are or have been in effect during such 12-month period. The Company shall give written notice of its determination to the Holders and any applicable Designated Secured Lenders to defer the filing and of the fact that the purpose for such deferral no longer exists, in each case, as promptly as reasonably practicable after the occurrence thereof.

(f) The Company shall use reasonable best efforts to keep each Demand Registration Statement effective until the earlier of (i) two years (in the case of a shelf Demand Registration Statement) or 90 days (in the case of any other Demand Registration Statement) from the effective date of such Demand Registration Statement and (ii) such time as all of the Registrable Securities covered by such Demand Registration Statement have been sold pursuant to such Demand Registration Statement.

SECTION 2.02. Piggyback Registration Rights. (a) If at any time the Company has registered or has determined to register any of its securities for its own account or for the account of other security holders of the Company on any registration form (other than Form S-4 or S-8 or a successor form, or any other form if substantially all of the proceeds thereof are to be used to finance any publicly-announced acquisition) which permits the inclusion of the Registrable Securities (a "Piggyback Registration"), the Company will give the Holders written notice thereof promptly (but in no event less than 15 days prior to the anticipated filing date) and, subject to this Section 2.02, shall include in such registration all Registrable Securities requested to be included therein pursuant to the written request of one or more Holders received within 10 days after delivery of the Company's notice. If requested by any Holder, the Company shall include as a selling security holder in the applicable Registration Statement any Designated Secured Lender of the applicable Holder with respect to the Registrable Securities of the applicable Holder, subject to Section 3.04. If a Piggyback Registration is initiated as a primary underwritten offering on behalf of the Company, and the managing underwriters advise the Company and the Investor Representative that in their reasonable opinion the number of shares of Company Common Stock and other

securities proposed to be included in such registration exceeds the Maximum Number of Shares, the Company shall include in such registration: (i) first, the number of shares of Company Common Stock and other securities that the Company proposed to sell; (ii) second, the number of shares of Company Common Stock and other Registrable Securities requested to be included therein by all Holders who have requested registration of Registrable Securities in accordance with this Section 2.02(a), pro rata on the basis of the aggregate number of shares of Company Common Stock represented (including upon exercise or conversion) by the Registrable Securities requested to be included by each such Holder; and (iii) third, any other shares of Company Common Stock and other securities that have been requested to be so included by any other person.

(b) If a Piggyback Registration is initiated as an underwritten registration on behalf of a holder of shares of Company Common Stock or other securities other than the Holders (or, for the avoidance of doubt, their assignees) pursuant to a written agreement enforceable against the Company, and the managing underwriters advise the Company and the Investor Representative that in their reasonable opinion the number of shares of Company Common Stock and other securities proposed to be included in such registration exceeds the Maximum Number of Shares, then the Company shall include in such registration: (i) first, the number of shares of Company Common Stock and other securities requested to be included therein by the holder(s) requesting such registration; (ii) second, the number of shares of Company Common Stock and other Registrable Securities requested to be included therein by all Holders who have requested registration of Registrable Securities in accordance with Section 2.02(a), pro rata on the basis of the aggregate number of shares of Company Common Stock represented (including upon exercise or conversion) by the Registrable Securities requested to be included by each such Holder; (iii) third, the number of shares of Company Common Stock and other securities that the Company proposes to sell; and (iv) fourth, any other shares of Company Common Stock and other securities that have been requested to be so included by any other person.

(c) If any Piggyback Registration is a primary or secondary underwritten offering, the Company shall have the right to select, in its sole discretion, the managing underwriter or underwriters to administer any such offering.

(d) The Company shall not grant to any person the right to request the Company to register any shares of Company Common Stock or other securities in a Piggyback Registration unless such rights are consistent with the provisions of this Section 2.02.

(e) Each Holder may withdraw all or any part of its Registrable Securities (on its own behalf or on behalf of its applicable Designated Secured Lender) from a Piggyback Registration at any time by delivering written notice of such withdrawal request to the Company, unless such Piggyback Registration is underwritten, in which case Registrable Securities may not be withdrawn after the effective date of the applicable Registration Statement.

ARTICLE III

Registration Procedures

SECTION 3.01. Expenses of Registration and Selling. All Expenses of the Company, the Holders and the applicable Designated Secured Lenders incurred in connection with any registration, qualification or compliance hereunder or the sale of any securities registered hereunder shall be borne by the Company.

SECTION 3.02. Obligations of the Company. Whenever required to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably practicable, subject to the other provisions of this Agreement:

(a) Prepare and file with the SEC a Registration Statement with respect to a proposed offering of Registrable Securities and use reasonable best efforts to have such Registration Statement declared effective as promptly as practicable.

(b) Prepare and file with the SEC such amendments and supplements to the applicable Registration Statement and the Prospectus or prospectus supplement used in connection with such Registration Statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by such Registration Statement.

(c) Furnish to the selling Holder or Holders, any applicable Designated Secured Lender and any underwriters such number of copies of the applicable Registration Statement and each such amendment and supplement thereto (including in each case all exhibits) and of a Prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned or to be distributed by them.

(d) Use reasonable best efforts to register and qualify the securities covered by such Registration Statement under such other securities or blue sky laws of such jurisdictions as shall be reasonably requested by the Investor Representative or any managing underwriter(s), to keep such registration or qualification in effect for so long as such Registration Statement remains in effect and to take any other action which may be reasonably necessary to enable the selling Holder or Holders or their applicable Designated Secured Lenders to consummate the disposition in such jurisdictions of the securities owned by the selling Holder or Holders or their applicable Designated Secured Lenders; provided, however, that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business, to file a general consent to service of process or to become subject to taxation in any such states or jurisdictions.

(e) Notify the selling Holder or Holders and their applicable Designated Secured Lenders at any time when a Prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the applicable Prospectus, as then in effect, includes an untrue statement of a material fact or

omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which such statements were made, not misleading.

(f) Give written notice to the selling Holder or Holders and their applicable Designated Secured Lenders:

(i) when any Registration Statement filed pursuant to Section 2.01 or 2.02 or any amendment thereto has been filed with the SEC and when such Registration Statement or any post-effective amendment thereto has become effective;

(ii) of any request by the SEC for amendments or supplements to any Registration Statement or the Prospectus included therein or for additional information;

(iii) of the issuance by the SEC of any stop order suspending the effectiveness of any Registration Statement or the initiation of any proceedings for that purpose;

(iv) of the receipt by the Company or its legal counsel of any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and

(v) of the happening of any event that requires the Company to make changes in any effective Registration Statement or Prospectus in order to make the statements therein not misleading (in the case of the Prospectus, in the light of the circumstances under which such statements were made), which notice shall be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made.

(g) Use reasonable best efforts to prevent the issuance or obtain the withdrawal of any order suspending the effectiveness of any Registration Statement referred to in Section 3.02(f)(iii) at the earliest practicable time.

(h) Upon the occurrence of any event contemplated by Section 3.02(f)(v), promptly prepare a post-effective amendment to such Registration Statement or a supplement to the related Prospectus or file any other required document so that, as thereafter delivered to the selling Holder or Holders, their applicable Designated Secured Lenders and any underwriters, the Prospectus will not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. If the Company notifies the selling Holder or Holders and their applicable Designated Secured Lenders in accordance with Section 3.02(f)(v) to suspend the use of the Prospectus until the requisite changes to the Prospectus have been made, then the selling Holder or Holders and their applicable Designated Secured Lenders and any underwriters shall suspend use of such Prospectus and use reasonable best efforts to return to the Company

all copies of such Prospectus (at the Company's expense) other than permanently filed copies then in the possession of the selling Holder or Holders, their applicable Designated Secured Lenders or the underwriters.

(i) Use reasonable best efforts to procure the cooperation of the Company's transfer agent in settling any offering or sale of Registrable Securities, including with respect to the transfer of physical stock certificates into book-entry form in accordance with any procedures reasonably requested by the Investor Representative or any managing underwriter(s).

(j) In the case of an underwritten offering, enter into an underwriting agreement in form, scope and substance as is customarily entered into for similar underwritten offerings of equity securities by similar companies and take all such other actions reasonably requested by the Investor Representative or by the managing underwriter(s), if any, to expedite or facilitate the underwritten disposition of such Registrable Securities, and in connection therewith (i) make such representations and warranties to the selling Holder or Holders, their applicable Designated Secured Lenders and the managing underwriter(s) with respect to the business of the Company and its subsidiaries, and the Registration Statement, Prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, in form, substance and scope as are customarily made by the issuer in similar underwritten offerings of equity securities by similar companies, and, if true, confirm the same if and when requested; (ii) use reasonable best efforts to furnish the underwriter(s) with opinions of counsel to the Company, addressed to the managing underwriter(s), covering the matters customarily covered in the opinions requested in similar underwritten offerings of equity securities by similar companies; (iii) use reasonable best efforts to obtain "cold comfort" letters from the current and former independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any business acquired by the Company for which financial statements and financial data are included in the Registration Statement) who have certified the financial statements included in such Registration Statement, such letters to be in customary form and covering matters of the type customarily covered in "cold comfort" letters in connection with similar underwritten offerings of equity securities by similar companies; (iv) if an underwriting agreement is entered into, provide that the same shall contain indemnification provisions and procedures customary in similar underwritten offerings of equity securities by similar companies and consistent with the provisions of Section 4.01 hereof; and (v) deliver such documents and certificates as may be reasonably requested by the selling Holder or Holders, their counsel and the managing underwriter(s) to evidence the continued validity of the representations and warranties made pursuant to clause (i) above and to evidence compliance with any customary conditions contained in the underwriting agreement or other agreement entered into by the Company.

(k) Make available for inspection by a single representative of the selling Holder or Holders and their applicable Designated Secured Lenders, and the managing underwriter(s), if any, and their respective attorneys or accountants, at the offices where normally kept, during reasonable business hours, financial and other records, pertinent corporate documents and properties of the Company, and cause the officers, directors and

employees of the Company to supply all information in each case reasonably requested by any such representative, managing underwriter(s), attorney or accountant in connection with such Registration Statement.

(l) (i) Use reasonable best efforts to cause all shares of Company Common Stock covered by a Registration Statement to be listed on the national securities exchange on which the Company Common Stock is then listed, and enter into such customary agreements, including a supplemental listing application and indemnification agreement in customary form; provided, however, that the applicable listing requirements are satisfied, and (ii) provide a transfer agent and registrar for such Registrable Securities covered by such Registration Statement no later than the effective date of such Registration Statement. For the avoidance of doubt, the Company shall bear the cost of all reasonable expenses associated with any listing.

(m) Make reasonably available senior executives of the Company to participate in “road show” and other marketing presentations from time to time as reasonably requested by the managing underwriter(s), if any.

SECTION 3.03. Suspension of Sales. During (i) any Scheduled Black-Out Period, (ii) upon receipt of written notice from the Company that the Board has determined, in good faith, that permitting continuing offers and sales of Registrable Securities registered under a shelf Registration Statement would require the disclosure of material non-public information concerning the Company that at the time is not, in the good faith judgment of the Board, in the best interests of the Company to disclose and is not, in the opinion of the Company’s counsel, otherwise required to be disclosed, the period during which allowing such offers and sales would require such disclosure (provided that (x) the Company may not suspend use of the applicable Registration Statement pursuant to this clause (ii) for a period of more than 45 days per notice, (y) the total number of days that any such suspensions pursuant to this clause (ii) may be in effect in any 12-month period shall not exceed 90 days in the aggregate, less (without duplication) the number of days during such 12-month period in which any deferrals pursuant to Section 2.01(e) are or have been in effect, and (z) the Company shall not exercise its right to suspend use of a Registration Statement pursuant to this clause (ii) more than three times in the aggregate in any 12-month period, less the number of deferrals pursuant to Section 2.01(e) that are or have been in effect during such 12-month period), or (iii) the period following receipt of written notice from the Company that a Registration Statement, Prospectus or prospectus supplement contains or may contain an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading (excluding for purposes of this clause (iii) any event or circumstances to which clause (ii) could be applicable), the selling Holder or Holders and their applicable Designated Secured Lenders shall discontinue disposition of Registrable Securities pursuant to the applicable Registration Statement until the termination of such Scheduled Black-Out Period or until the selling Holder or Holders and their applicable Designated Secured Lenders have received copies of a supplemented or amended Prospectus or prospectus supplement, or until the selling Holder or Holders and their applicable Designated Secured Lenders are advised in writing by the Company that the use of the Prospectus and, if applicable,

prospectus supplement may be resumed. If so directed by the Company, in the case of a suspension pursuant to clause (iii), the selling Holder or Holders and their applicable Designated Secured Lenders shall deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in their possession, of the Prospectus and, if applicable, prospectus supplement covering such Registrable Securities current at the time of receipt of such suspension notice. The Company shall use reasonable best efforts to cure any untrue statement of a material fact or material omission in order to permit the resumption of dispositions at the earliest practicable date following a suspension in accordance with clause (iii).

SECTION 3.04. Furnishing Information. It shall be a condition precedent to the obligations of the Company to include the Registrable Securities of any Holder and its Designated Secured Lenders in any Registration Statement that the applicable Holder or its applicable Designated Secured Lender furnish to the Company such information regarding itself, the Registrable Securities held by or pledged to it and the intended method of disposition of such securities as shall be required to effect the registered offering of its Registrable Securities in accordance with the Securities Act and the requirements of the applicable Securities Act form. As a condition to any Designated Secured Lender being named as a selling security holder in any Registration Statement pursuant hereto, the Company may, in its discretion, require that such Designated Secured Lender confirm in writing its agreement to comply with the obligations of a Designated Secured Lender specified in this Agreement with respect to such registration.

ARTICLE IV

Indemnification and Contribution

SECTION 4.01. Indemnification. (a) In connection with each registration pursuant to Article II, the Company agrees to indemnify and hold harmless each selling Holder and each Designated Secured Lender named as a selling security holder in the applicable Registration Statement, and each person, if any, who controls any such person within the meaning of Section 15 of the Securities Act, as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, or arising out of an untrue statement of a material fact included in any preliminary prospectus or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, if such settlement is effected with the written consent of the Company, which consent shall not be unreasonably withheld;

provided, however, that, with respect to any selling Holder or Designated Secured Lender, this indemnity shall not apply to any loss, liability, claim, damage or expense to the extent arising out of an untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by such selling Holder or Designated Secured Lender expressly for use in the Registration Statement (or any amendment thereto), or any preliminary prospectus or the Prospectus (or any amendment or supplement thereto).

(b) Each selling Holder and each Designated Secured Lender agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, each of its officers who signed a Registration Statement and the other selling Holders and applicable Designated Secured Lenders, and each person, if any, who controls the Company, any other selling Holder or any Designated Secured Lender within the meaning of Section 15 of the Securities Act, against any and all loss, liability, claim, damage and expense described in the indemnity contained in Section 4.01(a), as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), or any preliminary prospectus or the Prospectus (or any amendment or supplement thereto), in reliance upon and in conformity with written information furnished to the Company by such selling Holder or Designated Secured Lender expressly for use in the Registration Statement (or any amendment thereto), or any preliminary prospectus or the Prospectus (or any amendment or supplement thereto); provided that no such selling Holder or Designated Secured Lender shall be liable under this Section 4.01 for any amounts exceeding the product of the sales price per Registrable Security and the number of Registrable Securities being sold pursuant to such Registration Statement or Prospectus by such selling Holder or Designated Secured Lender.

(c) Each indemnified party shall give prompt notice to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve the indemnifying party from any liability it may have under this Agreement, except to the extent that the indemnifying party is prejudiced thereby. If it so elects, after receipt of such notice, an indemnifying party, jointly with any other indemnifying parties receiving such notice, may assume the defense of such action with counsel chosen by it; provided, however, that the indemnified party shall be entitled to participate in (but not control) the defense of such action with counsel chosen by it, the reasonable fees and expenses of which shall be paid by such indemnified party, unless a conflict would arise if one counsel were to represent both the indemnified party and the indemnifying party, in

which case the reasonable fees and expenses of counsel to the indemnified party shall be paid by the indemnifying party or parties. In no event shall the indemnifying party or parties be liable for a settlement of an action with respect to which they have assumed the defense if such settlement is effected without the written consent of such indemnifying party, or for the reasonable fees and expenses of more than one counsel for (i) the Company and its officers, directors and controlling persons as a group, and (ii) the selling Holders, the applicable Designated Secured Lenders and their controlling persons as a group, in each case, in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances; provided, however, that if, in the reasonable judgment of an indemnified party, a conflict of interest may exist between such indemnified party and the Company or any other of such indemnified parties with respect to such claim, the indemnifying party shall be obligated to pay the reasonable fees and expenses of such additional counsel.

SECTION 4.02. Contribution. (a) If the indemnification provided for in or pursuant to Section 4.01 is due in accordance with the terms hereof, but held by a court of competent jurisdiction to be unavailable or unenforceable in respect of any losses, claims, damages, liabilities or expenses referred to therein, then each applicable indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions which result in such losses, claims, damages, liabilities or expenses as well as any other relevant equitable considerations. The relative fault of the indemnifying party on the one hand and of the indemnified party on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party, and by such party's relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. In no event shall the liability of any selling Holder or Designated Secured Lender be greater in amount than the amount for which such selling Holder or Designated Secured Lender would have been obligated to pay by way of indemnification if the indemnification provided for under Section 4.01(a) had been available under the circumstances.

(b) No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 4.02(b), each director of the Company, each officer of the Company who signed a Registration Statement, and each person, if any, who controls the Company or a selling Holder or Designated Secured Lender within the meaning of Section 15 of the Securities Act shall have the same rights to contribution as the Company or such selling Holder or Designated Secured Lender, as the case may be.

ARTICLE V

Miscellaneous

SECTION 5.01. Indemnities to Survive. The indemnity and contribution agreements contained in this Agreement shall remain operative and in full force and effect regardless of (i) any termination of any underwriting or agency agreement; (ii) any investigation made by or on behalf of the selling Holder or Holders, any applicable Designated Secured Lender, the Company or any underwriter or agent or controlling person; or (iii) the consummation of the sale or successive resales of the Registered Securities.

SECTION 5.02. Lock-Up Agreements. (a) The Company agrees that, in connection with an underwritten offering in respect of which Registrable Securities are being sold, if requested by the managing underwriter(s), it will not, directly or indirectly, sell, offer to sell, grant any option for the sale of, or otherwise dispose of, any Company Common Stock or securities convertible into or exchangeable or exercisable for Company Common Stock (subject to customary exceptions), other than any such sale or distribution of Company Common Stock upon conversion of the Preferred Stock or upon exercise of the Warrants, for a period of 90 days from the effective date of the registration statement pertaining to such Registrable Securities or such shorter period to which the selling Holder or Holders and the Designated Secured Lenders are subject.

(b) The lock-up agreements set forth in Section 5.02(a) shall be subject to customary exceptions that may be set forth in a written underwriting agreement.

SECTION 5.03. Enforcement. The Company, the Holders and the Designated Secured Lenders agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Company, the Holders and the Designated Secured Lenders shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in the Delaware Court of Chancery (and if the Delaware Court of Chancery shall be unavailable, in any Delaware State court or the Federal court of the United States of America sitting in the State of Delaware), this being in addition to any other remedy to which they are entitled at law or in equity. Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that (x) any party has an adequate remedy at law or (y) an award of specific performance is not an appropriate remedy for any reason at law or equity.

SECTION 5.04. Rule 144 Reporting. With a view to making available to the Holders the benefits of certain rules and regulations of the SEC which may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use reasonable best efforts to:

(a) for so long as it is subject to the periodic reporting obligations of the Exchange Act, make and keep public information available, as those terms are understood and defined in Rule 144(c)(1) or any similar or analogous rule promulgated under the Securities Act, at all times after the effective date of this Agreement;

(b) for so long as it is subject to the periodic reporting obligations of the Exchange Act, file with the SEC, in a timely manner, all reports and other documents required of the Company under the Exchange Act; and

(c) furnish to the Holders and any Designated Secured Lenders forthwith upon request: (i) in the event the Company is no longer subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, a written statement by the Company as to its compliance with the reporting requirements of Rule 144 under the Securities Act and of the Exchange Act; (ii) in the event the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, a copy of the most recent annual or quarterly report of the Company; and (iii) such other reports and documents as the Holders may reasonably request in availing themselves of any rule or regulation of the SEC allowing them to sell any such securities without registration; provided, however, that the Company shall be deemed to have furnished any such document if it shall have timely made such document available on the SEC's Electronic Data Gathering, Analysis and Retrieval System, or a successor system.

SECTION 5.05. Notices. Any notice, demand or delivery to the Investor Representative or the Company authorized by this Agreement shall be sufficiently given or made when mailed if sent by first-class mail, postage prepaid, addressed to the Investor Representative or the Company, as applicable, as follows:

if to the Investor Representative, to:

Jacobs Private Equity, LLC
350 Round Hill Road
Greenwich, CT 06831
Facsimile: 203-661-6684
Attention: Bradley S. Jacobs

with a copy to:

Cravath, Swaine & Moore LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
Facsimile: 212-474-3700
Attention: Eric L. Schiele, Esq.

if to the Company, to:

XPO Logistics, Inc.
3399 South Lakeshore Drive, Suite 225
Saint Joseph, MI 49085
Facsimile: 269-695-7458
Attention: John D. Welch,

or such other address as shall have been furnished to the party giving or making such notice, demand or delivery.

Any notice required to be given by the Company to the Holders (other than the Investor Representative) or any Designated Secured Lenders pursuant to this Agreement shall be made by mailing by registered mail, return receipt requested, to such Holders at their respective addresses shown on the register of the Company or to such Designated Secured Lenders at their respective addresses designated in writing to the Company by the applicable Holders. Any notice that is mailed to any such Holder or Designated Secured Lender in the manner herein provided shall be conclusively presumed to have been duly given when mailed, whether or not such Holder or Designated Secured Lender receives the notice.

SECTION 5.06. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

SECTION 5.07. Assignment; Persons Benefiting. Any Holder may assign all or a portion of its rights hereunder (including the exclusive right to exercise the Registration Rights with respect to such Holder's Registrable Securities) to any person (including any secured lender or other pledgee of such Holder) to which such Holder assigns or transfers any interest in all or a portion of such Holder's Registrable Securities. The Company shall acknowledge any such assignment promptly upon the written request (including documentation reasonably satisfactory to the Company of such assignment) of such Holder or such Holder's assignee. This Agreement shall be binding upon and inure to the benefit of the Company and the Investor Representative, and their respective successors, assigns, beneficiaries, executors and administrators, and the Holders from time to time of the Registrable Securities, and the Designated Secured Lenders. Except as otherwise expressly provided herein, nothing in this Agreement is intended or shall be construed to confer upon any person, other than the Company, the

Investor Representative, the Holders and the Designated Secured Lenders, any right, remedy or claim under or by reason of this Agreement or any part hereof.

SECTION 5.08. Counterparts. This Agreement may be executed in any number of counterparts, including by means of facsimile and/or electronic mail transmission, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

SECTION 5.09. Amendments. Neither this Agreement nor any provisions hereof shall be waived, modified, changed, discharged or terminated other than in a writing signed by each of the Company and the Majority Holders.

SECTION 5.10. Severability. If any provision of this Agreement or the application of any such provision to any person or circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of any other provision hereof and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 5.11. Headings. The descriptive headings of the several Articles and Sections of this Agreement are inserted for convenience and shall not control or affect the meaning or construction of any of the provisions hereof.

SECTION 5.12. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

SECTION 5.13. Attorney's Fees. In any action or proceeding brought to enforce any provision of this Agreement, the successful party shall be entitled to recover reasonable attorney's fees in addition to its costs and expenses and any other available remedy.

SECTION 5.14. Limitation of Liability. No party to this Agreement shall be liable to any other party for any consequential, indirect or special damages under any provision of this Agreement or for any consequential, indirect, punitive or special damages arising out of any act or failure to act hereunder even if that party has been advised of or has foreseen the possibility of such damages.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

XPO LOGISTICS, INC.

by /s/ Michael R. Welch

Name: Michael R. Welch

Title: Chief Executive Officer

JACOBS PRIVATE EQUITY, LLC,
for itself and on behalf of each of the
other Initial Holders listed on Schedule I
hereto

by /s/ Bradley S. Jacobs

Name: Bradley S. Jacobs

Title: Managing Member

INITIAL HOLDERS

Albert J. Jacobs Trust
Fred Bratman
Ronald B. Brown
Sharon Jacobs Brown
Charles Cahn III
Charlotte S. Jacobs Trust
Eli Dornitz
Martin Flumenbaum
Ben Gordon
William Harrison
Jacobs Private Equity, LLC
Theodore R. Jacobs
Adrian P. Kingshott
Michael J. Kneeland
James J. Martell
Michael G. Jesselson 4/8/71 Trust
Michael G. Jesselson 12/18/80 Trust
Michael S. Nervick Revocable Trust dated 5/26/05
Robert Nardone
Jay Novik
Lucy M. Peterson
Springer Wealth Management LLC
Taha, LLC
Christopher Tsai
Tong Yu
XPO Partners LLC

XPO Logistics Completes Equity Investment of up to \$150 Million
Bradley Jacobs becomes Chairman and CEO of former
Express-1 Expedited Solutions

BUCHANAN, Mich. — September 02, 2011 — XPO Logistics, Inc. (NYSE Amex: XPO) (“Company”) today completed the previously announced equity investment led by Jacobs Private Equity, LLC. Under the terms of the transaction, Jacobs Private Equity and minority co-investors will invest an aggregate of up to \$150 million in cash in the Company, including an investment by Jacobs Private Equity of up to \$135 million, in each case including amounts payable upon exercise of warrants.

Upon closing, Bradley Jacobs, managing director of Jacobs Private Equity, became the chairman of the Company’s new board of directors, which is comprised of G. Chris Andersen, Michael Jesselson, Adrian Kingshott, James Martell, Jason Papastavrou and Oren Shaffer. Jacobs will also serve as chief executive officer.

The transaction received stockholder approval by vote on September 1, 2011. Additionally, stockholders approved the Company’s new name of XPO Logistics, Inc. (formerly Express-1 Expedited Solutions, Inc.), effective immediately. The stock will continue to trade under the symbol XPO.

Forward-Looking Statements

This press release contains forward-looking statements. Statements that are not historical facts, including statements about beliefs or expectations, are forward-looking statements. These statements are based on plans, estimates and projections at the time the statements are made, and readers should not place undue reliance on them. In some cases, readers can identify forward-looking statements by the use of forward-looking terms such as “may,” “will,” “should,” “expect,” “intend,” “plan,” “anticipate,” “believe,” “estimate,” “predict,” “potential” or “continue” or the negative of these terms or other comparable terms. Forward-looking statements involve inherent risks and uncertainties and readers are cautioned that a number of important factors could cause actual results to differ materially from those contained in any such forward-looking statements. Factors that could cause actual results to differ materially from those described in this press release include, among others: potential fluctuations in operating results and expenses, government regulation, technology change, competition and the potential inability to identify and consummate acquisitions and arrange adequate financing. Readers are cautioned not to place undue reliance on the forward-looking statements included in this press release, which speak only as of the date hereof. Neither the Company nor any other person undertakes any obligation to update any of these statements in light of new information or future events.

About XPO Logistics, Inc.

Founded in 1989, XPO Logistics, Inc. is a non-asset-based, third-party logistics services provider that uses a network of relationships with ground, sea and air carriers to find the best transportation solutions for its customers. The Company offers its services through three distinct business units: Express-1, Inc. (expedited transportation solutions), the fifth largest U.S. expedited freight service provider, according to The Journal of Commerce; Concert Group Logistics, Inc. (domestic and international freight forwarding); and Bounce Logistics, Inc. (premium truckload brokerage). The Company serves more than 4,000 retail, commercial, manufacturing and industrial customers through six U.S. operations centers and 23 agent locations. In 2010, the Company completed more than 144,000 transactions for customers and generated revenues of approximately \$158 million. www.xpocorporate.com

Contact:

Brunswick Group
Steve Lipin / Gemma Hart, +1-212-333-3810

Jacobs Private Equity, LLC
350 Round Hill Road
Greenwich, CT 06831

September 2, 2011

XPO Logistics, Inc.
429 Post Road
Buchanan, MI 49107

Gentlemen:

Reference is made to the Investment Agreement, dated June 13, 2011, among Jacobs Private Equity, LLC, a Delaware limited liability company ("JPE"), certain other investors (such other investors, the "Investors"), and Express-1 Expedited Solutions, Inc., now known as XPO Logistics, Inc., a Delaware corporation (the "Company"), as amended (the "Investment Agreement"), pursuant to which JPE and the Investors made an investment in the Company as of the date hereof. On the date hereof, in accordance with the terms and conditions of the Investment Agreement, the Company issued to JPE, for \$67,500,000 in cash, (i) 67,500 shares of Series A Convertible Perpetual Preferred Stock of the Company (the "Preferred Stock"), which are initially convertible into an aggregate of 9,642,857 shares of Company common stock, and (ii) warrants to initially purchase 9,642,857 shares of Company common stock (the "Warrants") at an initial exercise price of \$7.00 per share. The shares of Preferred Stock, the Warrants and the shares of common stock issued or issuable upon conversion of the Preferred Stock or exercise of the Warrants are referred to, collectively, as the "Registrable Securities".

Although JPE intends to exercise its right to request the registration of the sale of the Registrable Securities on a Registration Statement on Form S-3, JPE would like to confirm its commitment to the long-term success of the Company. To reinforce JPE's long-term commitment to the Company and its stockholders, JPE, acting unilaterally and voluntarily, hereby commits to the Company that, during the period ending one year from the date hereof, it will not sell or otherwise transfer any of the Registrable Securities, other than transfers to affiliates, who will also make such commitment, or as security for financial planning purposes and charitable contributions.

Very truly yours,

JACOBS PRIVATE EQUITY, LLC,

by /s/ Bradley S. Jacobs

Name: Bradley S. Jacobs

Title: Managing Member