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): December 18, 2024

Applied Optoelectronics, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**001-36083**	**76-0533927**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

13139 Jess Pirtle Blvd. Sugar Land, Texas	**77478**
(Address of principal executive offices)	**(Zip Code)**

(281) 295-1800
(Registrant's telephone number, including area code)

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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

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

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

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

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

Title of each class	Trading Symbol(s)	Trading Name of each exchange on which registered
Common Stock, Par value $0.001	**AAOI**	**NASDAQ Global Market**

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

Emerging growth company ☐

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

Item 1.01. Entry into a Material Definitive Agreement.

Exchange Agreement

On December 18, 2024, Applied Optoelectronics, Inc. (the "Company") entered into exchange agreements (the "Exchange Agreements") with certain holders (the "Noteholders") of its 5.25% Convertible Senior Notes due 2026 (the "2026 Notes") to exchange approximately $76.7 million principal amount of the 2026 Notes for aggregate consideration consisting of (i) $125.0 million aggregate principal amount of 2.75% Convertible Senior Notes due 2030 (the "2030 Notes"), (ii) 1,487,874 shares (the "Exchange Shares") of the Company's common stock, par value $0.001 per share ("Common Stock") and (iii) approximately $89.6 thousand of cash in aggregate, representing accrued and unpaid interest on the 2026 Notes and the value of fractional shares of Common Stock (such transactions, collectively, the "Exchanges"). The Exchanges are expected to be consummated on or about December 23, 2024, subject to the satisfaction of customary closing conditions.

The Exchange Agreements contain customary representations, warranties, covenants, and other agreements by the Company and the Noteholders. The foregoing description of the Exchange Agreements is only a summary and is qualified in its entirety by reference to the full text of the form of Exchange Agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated by reference in this Item 1.01 and Item 3.02.

The issuance of the 2030 Notes and the Exchange Shares pursuant to the Exchanges are being made in transactions exempt from registration pursuant to Section 3(a)(9) and 4(a)(2) under the Securities Act of 1933, as amended (the "Securities Act").

This Current Report on Form 8-K is not an offer to sell any securities of the Company and is not soliciting an offer to buy such securities in any state where such offer and sale is not permitted. The offer and sale of the 2030 Notes, the Exchange Shares and the shares of Common Stock issuable upon conversion of the 2030 Notes have not been registered under the Securities Act, and the 2030 Notes, the Exchange Shares and the shares issuable upon conversion of the 2030 Notes may not be offered or sold without registration or an applicable exemption from the registration requirements of the Securities Act and applicable state or other jurisdictions' securities laws, or in transactions not subject to those registration requirements.

Placement Agency Agreement

On December 18, 2024, the Company entered into a Placement Agency Agreement (the "Placement Agency Agreement") with Raymond James & Associates, Inc. to act as the sole placement agent (the "Placement Agent") in connection with the issuance of an aggregate of 1,036,458 shares of Common Stock, at a purchase price of $33.97 per share, in a registered direct offering to the Noteholders (the "Registered Direct Offering"). Pursuant to the Placement Agency Agreement, the Placement Agent is entitled to a fee equal to an aggregate of 3% of the proceeds received by the Company in the Registered Direct Offering.

The Registered Direct Offering was made pursuant to an automatic shelf registration statement on Form S-3ASR (Registration File No. 333-283905), which was filed with the U.S. Securities and Exchange Commission (the "Commission") on December 18, 2024 and became effective immediately upon filing. A prospectus supplement and accompanying prospectus relating to the Registered Direct Offering have been filed with the Commission.

The net proceeds of the Registered Direct Offering are estimated to be approximately $33,636,846, after deducting placement agent fees and other estimated offering expenses. The Company intends to use the net proceeds from this Registered Direct Offering for general corporate purposes, which may include among other things, capital expenditures and working capital. The Company may also use such proceeds to fund acquisitions of businesses, technologies or product lines that complement its current business; however the Company has no present plans, agreements or commitments with respect to any potential acquisition. The Registered Direct Offering is expected to be consummated on or about December 23, 2024, subject to the satisfaction of customary closing conditions.

The Placement Agency Agreement contains customary representations, warranties, covenants, and other agreements by the Company and the Placement Agent. The foregoing description of the Placement Agency Agreement is only a summary and is qualified in its entirety by reference to the full text of the Placement Agency Agreement, which is filed as Exhibit 1.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated by reference regarding the 2030 Notes.

Item 3.02. Unregistered Sales of Equity Securities.

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference regarding the 2030 Notes and the Exchange Shares.

Item 7.01. Regulation FD Disclosure.

On December 18, 2024, the Company issued a press release announcing the launch of the Registered Direct Offering and the Exchanges. The full text of the press release is attached as Exhibit 99.1, and is incorporated herein by reference.

On December 19, 2024, the Company issued a press release announcing the pricing of the Registered Direct Offering and the Exchanges. The full text of the press release is attached as Exhibit 99.2, and is incorporated herein by reference.

In accordance with General Instruction B.2 of Form 8-K, the information in this Item 7.01 of this Current Report on Form 8-K, including Exhibit 99.1 and Exhibit 99.2, shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Exchange Act or the Securities Act, except as shall be expressly set forth by reference in such a filing. Furthermore, the furnishing of information under Item 7.01 of this Current Report on Form 8-K is not intended to constitute a determination by the Company that the information contained herein, including the exhibits hereto, is material or that the dissemination of such information is required by Regulation FD.

Item 8.01 Other Events.

The Registered Direct Offering was made pursuant to an automatic shelf registration statement on Form S-3ASR (Registration File No. 333-283905), which was filed with the Commission on December 18, 2024 and became effective immediately upon filing. A prospectus supplement and accompanying prospectus relating to the Registered Direct Offering have been filed with the Commission. The opinion of counsel for the Company is included as Exhibit 5.1 to this Current Report on Form 8-K.

Forward-Looking Information

This Current Report on Form 8-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. In some cases, you can identify forward-looking statements by terminology such as "believe," "may," "estimate," "continue," "anticipate," "intend," "should," "could," "would," "target," "seek," "aim," "predicts," "think," "objectives," "optimistic," "new," "goal," "strategy," "potential," "is likely," "will," "expect," "plan" "project," "permit" or by other similar expressions that convey uncertainty of future events or outcomes. Such forward-looking statements reflect the views of management at the time such statements are made. These forward-looking statements involve risks and uncertainties, as well as assumptions and current expectations, which could cause our actual results to differ materially from those anticipated in such forward-looking statements. These risks and uncertainties include but are not limited to: reduction in the size or quantity of customer orders; change in demand for our products due to industry conditions; changes in manufacturing operations; volatility in manufacturing costs; delays in shipments of products; disruptions in the supply chain; change in the rate of design wins or the rate of customer acceptance of new products; our reliance on a small number of customers for a substantial portion of its revenues; potential pricing pressure; a decline in demand for our customers' products or their rate of deployment of their products; general conditions in the internet datacenter, cable television (CATV) broadband, telecom, or fiber-to-the-home (FTTH) markets; changes in the world economy (particularly in the United States and China); changes in the regulation and taxation of international trade, including the imposition of tariffs; changes in currency exchange rates; the negative effects of seasonality; the impact of any pandemic or similar events on our business and financial results; and other risks and uncertainties described more fully in our documents filed with or furnished to the Securities and Exchange Commission, including our Annual Report on Form 10-K for the year ended December 31, 2023 and our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2024, June 30, 2024 and September 30, 2024. More information about these and other risks that may impact our business are set forth in the "Risk Factors" section of our quarterly and annual reports on file with the Securities and Exchange Commission. You should not rely on forward-looking statements as predictions of future events. All forward-looking statements in this Current Report on Form 8-K are based upon information available to us as of the date hereof, and qualified in their entirety by this cautionary statement. Except as required by law, we assume no obligation to update forward-looking statements for any reason after the date of this Current Report on Form 8-K to conform these statements to actual results or to changes in our expectations.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
1.1	Placement Agency Agreement, dated December 18, 2024, between Applied Optoelectronics, Inc. and Raymond James & Associates, Inc.
5.1	Opinion of Haynes and Boone, LLP.
10.1#	Form of Exchange Agreement, between Applied Optoelectronics, Inc. and the Noteholders.
23.1	Consent of Haynes and Boone, LLP (included in Exhibit 5.1).
99.1	Launch Press Release of Applied Optoelectronics, Inc. dated December 18, 2024.
99.2	Pricing Press Release of Applied Optoelectronics, Inc. dated December 19, 2024.
104	Cover Page Interactive File (the cover page tags are embedded within the Inline XBRL document).

Certain exhibits and schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company hereby undertakes to furnish supplementally a copy of any omitted exhibit or schedule upon request by the Securities and Exchange Commission.

SIGNATURES

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

APPLIED OPTOELECTRONICS, INC.

Date: December 20, 2024

By: /s/ David C. Kuo
Name: David C. Kuo
Title: Senior Vice President and Chief Legal Officer

Exhibit 1.1

Applied Optoelectronics, Inc.

1,036,458 Shares of Common Stock, par value $0.001 per share

PLACEMENT AGENCY AGREEMENT

December 18, 2024

Raymond James & Associates, Inc.
880 Carillon Parkway
St. Petersburg, FL 33716

Dear Sir or Madam:

Applied Optoelectronics, Inc., a Delaware corporation (the "Company"), proposes to issue and sell 1,036,458 shares (the "Shares") of common stock, par value $0.001 per share (the "Common Stock"), to certain investors (collectively, the "Investors"). The Company desires to engage you as its placement agent (the "Placement Agent") in connection with such issuance and sale. The Shares are more fully described in the Registration Statement (as hereinafter defined).

The Company hereby confirms as follows its agreements with the Placement Agent.

1. Agreement to Act as Placement Agent. On the basis of the representations, warranties and agreements of the Company herein contained and subject to all the terms and conditions of this Agreement, the Company hereby appoints the Placement Agent and the Placement Agent agrees to act as the Company's exclusive placement agent, on a best efforts basis, in connection with the issuance and sale by the Company of the Shares to the Investors. The Placement Agent shall use commercially reasonable efforts to assist the Company in obtaining performance by each Investor whose offer to purchase Shares has been solicited by the Placement Agent and accepted by the Company, but the Placement Agent shall not, except as otherwise provided in this Agreement, have any liability to the Company in the event any such purchase is not consummated for any reason. The Company shall have the sole right to accept offers to purchase Shares and may reject any such offer, in whole or in part. The Company shall pay to the Placement Agent an aggregate amount equal to 3% of the proceeds received by the Company from the sale of the Shares, if any, actually sold as set forth on the cover page of the Prospectus (as defined below) upon the closing of the transactions contemplated hereby. The Placement Agent, without the prior consent of the Company, may appoint any co-agents or sub-agents in connection with the issuance and sale of the Shares and may allocate any portion of such fee to such co-agents or sub-agents. "Prospectus" means the final prospectus relating to the offering of the Shares including any prospectus supplement thereto and the documents incorporated by reference therein, as filed with the Securities and Exchange Commission (the "Commission") pursuant to Rule 424(b) of the rules and regulations (the "Rules and Regulations") of the Commission.

2. Delivery and Payment. At 10:00 a.m., New York City time, on December 23, 2024, or at such other time on such other date as may be agreed upon by the Company and the Placement Agent (such date is hereinafter referred to as the "Closing Date"), the Placement Agent shall cause the Investors to wire an amount equal to the price per share as shown on the cover page of the Prospectus for each and all of the Shares offered pursuant to the Prospectus to an account designated by the Company and the Company shall deliver the Shares to the Investors, which delivery shall be made through the facilities of The Depository Trust Company. The closing (the "Closing") shall take place at the office of Mayer Brown LLP, 1221 Avenue of the Americas New York, New York 10020-1001. All actions taken at the Closing shall be deemed to have occurred simultaneously.

3. Representations and Warranties of the Company. The Company represents and warrants and covenants to the Placement Agent on the date hereof, and shall be deemed to represent and warrant and covenant to the Placement Agent on the Closing Date, that:

(a) An automatically effective "shelf" registration statement on Form S-3 (File No. 333-283905) with respect to the Shares and certain other securities of the Company has been prepared by the Company in conformity with the requirements of the Securities Act of 1933, as amended (the "Securities Act"), and the Rules and Regulations of the Commission thereunder, and has been filed with the Commission. The Company and the transactions contemplated by this Agreement meet the requirements and comply with the conditions for the use of Form S-3. The Registration Statement (as defined below) meets the requirements of Rule 415(a)(1)(x) under the Securities Act and complies in all materials respects with said rule. "Registration Statement" means, collectively, the various parts of such registration statement, each as amended as of the Effective Date (as defined below) for such part, including any Preliminary Prospectus (as defined below) or the Prospectus and all exhibits to such registration statement. "Effective Date" means any date as of which any part of the Registration Statement became, or is deemed to have become, effective under the Securities Act in accordance with the Rules and Regulations. "Preliminary Prospectus" means any preliminary prospectus relating to the Shares included in the Registration Statement or filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations, including any preliminary prospectus supplement thereto relating to the Shares. Any reference to any Preliminary Prospectus, the Prospectus or the Registration Statement shall be deemed to refer to and include any documents incorporated or deemed to be incorporated by reference therein pursuant to Form S-3 under the Securities Act as of the date of such Preliminary Prospectus or the Prospectus, as the case may be. Any reference herein to the terms "amend", "amendment" or "supplement" with respect to the Registration Statement, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any document filed under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), after the Effective Date, the date of such Preliminary Prospectus or the date of the Prospectus, as the case may be, which is incorporated therein by reference.

At the time of filing the Registration Statement and, if applicable, at the time of the most recent amendment thereto for purposes of complying with Section 10(a)(3) of the Securities Act, the Company was a "well-known seasoned issuer" (as defined in Rule 405 of the Act) eligible to use Form S-3 for the offering of the Securities, including not having been an "ineligible issuer" at any such time. The Company has paid the registration fee for this offering pursuant to Rule 456(b)(1) under the Act or will pay such fee within the time period required by such rule (without giving effect to the proviso therein) and in any event prior to the Closing Date.

The Prospectus complies in all material respects with the Securities Act, and each Preliminary Prospectus and the Prospectus delivered to Placement Agent for use in connection with the offering of the Shares was identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR. The Registration Statement and any post-effective amendment thereto on each deemed effective date with respect to Placement Agent pursuant to Rule 430B(f)(2) of the Securities Act, complied and will comply in all material respects with the Securities Act and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. The documents incorporated or deemed to be incorporated by reference in the Prospectus, at the time they were filed with the Commission under the Exchange Act, complied in all material respects with the requirements of the Exchange Act. The Prospectus, as amended or supplemented, as of its date and at all subsequent times, did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The representations and warranties set forth in the three immediately preceding sentences do not apply to statements in or omissions from the Registration Statement or any post-effective amendment thereto, the Prospectus or any amendments or supplements thereto, made in reliance upon and in conformity with information relating to Placement Agent furnished to the Company in writing by Placement Agent expressly for use therein, it being understood and agreed that the only such information furnished by Placement Agent to the Company consists of the information described in Section 7(b) below. There are no contracts or other documents required to be described in the Prospectus or to be filed as exhibits to the Registration Statement which have not been described or filed as required.

The Company is not an "ineligible issuer" in connection with the offering of the Shares pursuant to Rules 164, 405 and 433 under the Securities Act. Any "free writing prospectus" (as defined in Rule 405) that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of Rule 433 under the Securities Act including timely filing with the Commission or retention where required and legending, and each such free writing prospectus, as of its issue date and as of the Closing Date, did not, does not and will not include any information that conflicted, conflicts with or will conflict with the information contained in the Registration Statement, Pricing Disclosure Materials (as defined below) or the Prospectus, including any document incorporated by reference therein, that has not been superseded or modified. Except for the free writing prospectuses, if any, identified in Schedule 2 hereto furnished to Placement Agent before first use, the Company has not used or referred to, and will not, without Placement Agent's prior consent, use or refer to, any free writing prospectus.

The Pricing Disclosure Materials (as defined below), including each free writing prospectus, did not, as of the Applicable Time (as defined below), contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided*, *however*, that the Company makes no representation or warranty with respect to any statement contained in the Pricing Disclosure Materials in reliance upon and in conformity with information concerning the Placement Agent and furnished in writing by the Placement Agent to the Company expressly for use in the Pricing Disclosure Materials, as set forth in Section 7(b). "Pricing Disclosure Materials" shall mean, as of the Applicable Time, the most recent Preliminary Prospectus, together with each free writing prospectus filed or used by the Company on or before the Applicable Time, and the information set forth on Schedule 3 hereto. "Applicable Time" means 6:30 p.m., New York City time, on the date of this Agreement.

(b) The Company has delivered to Placement Agent a complete copy of the Registration Statement, each amendment thereto and each opinion, consent and certificate of experts, filed as a part thereof, and conformed copies of the Registration Statement, each amendment thereto (without exhibits) and the Prospectus, as amended or supplemented, and any free writing prospectus reviewed and consented to in writing by Placement Agent, in such quantities and at such places as Placement Agent has reasonably requested.

(c) The Company has not distributed and will not distribute, prior to the Closing, any offering material in connection with the offering and sale of the Shares other than the Prospectus, any free writing prospectus reviewed and consented to in writing by Placement Agent or the Registration Statement.

(d) This Agreement has been duly authorized, executed and delivered by, and is a valid and binding agreement of, the Company, enforceable against the Company in accordance with its terms, except as rights to indemnification and contribution hereunder may be limited by applicable law and except as the enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors or by general equitable principles regardless of whether considered in a proceeding in equity or at law.

(e) The Shares have been duly authorized for issuance and sale pursuant to this Agreement and, when issued and delivered by the Company and paid for in accordance with this Agreement, will be validly issued, fully paid and nonassessable, and the issuance and sale of the Shares is not subject to any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase the Shares.

(f) The Company has not sold or issued any securities that would be integrated with the offering of the Shares contemplated by this Agreement pursuant to the Securities Act, the Rules and Regulations or the interpretations thereof by the Commission.

(g) There are no persons with registration or other similar rights to have any equity or debt securities registered for sale under the Registration Statement or included in the offering contemplated by this Agreement.

(h) Except as otherwise disclosed in the Registration Statement, Pricing Disclosure Materials and Prospectus, since the date of the most recent consolidated financial statements filed in the Company's quarterly report on Form 10-Q: (i) there has been no material adverse change, or any development that could reasonably be expected to result in a material adverse change, in the condition, financial or otherwise, or in the properties, business, results of operations or prospects, whether or not arising from transactions in the ordinary course of business, of the Company and its subsidiaries (each a "Subsidiary" and collectively, the "Subsidiaries"), considered as one entity (any such change is called a "Material Adverse Change"); (ii) the Company and its Subsidiaries, considered as one entity, have not incurred any material liability or obligation, indirect, direct or contingent, not in the ordinary course of business nor entered into any material transaction or agreement not in the ordinary course of business; and (iii) there has been no dividend or other distribution of any kind declared, paid or made by the Company (other than regular quarterly cash dividends) or, except for dividends paid to the Company or other Subsidiaries, any of its Subsidiaries on any class of capital stock or repurchase or redemption by the Company or any of its Subsidiaries of any class of capital stock.

(i) Grant Thornton LLP (the "Accountants"), who have expressed their opinion with respect to the financial statements (which term as used in this Agreement includes the related notes thereto) of the Company and its Subsidiaries incorporated by reference in the Registration Statement and the Prospectus are an independent registered public accounting firm with respect to the Company as required by the Securities Act and the Exchange Act and the applicable published rules and regulations thereunder.

(j) The financial statements of the Company and its Subsidiaries included and incorporated by reference in the Registration Statement, the Pricing Disclosure Materials and the Prospectus present fairly in all material respects the consolidated financial position of the Company and its Subsidiaries as of and at the dates indicated and the results of their operations and cash flows for the periods specified. Such financial statements have been prepared in conformity with United States generally accepted accounting principals, consistently applied ("GAAP"), except as may be expressly stated in the related notes thereto. No other financial statements or supporting schedules of the Company and its Subsidiaries are required to be included or incorporated by reference in the Registration Statement, the Pricing Disclosure Materials and the Prospectus. All disclosures contained in the Prospectus, the Pricing Disclosure Materials and the Registration Statement regarding "non-GAAP financial measures" (as such term is defined by the Rules and Regulations) comply with Regulation G of the Exchange Act and Item 10 of Regulation S-K under the Securities Act, to the extent applicable. No person who has been suspended or barred from being associated with a registered public accounting firm, or who has failed to comply with any sanction pursuant to Rule 5300 promulgated by the PCAOB, has participated in or otherwise aided the preparation of, or audited, the financial statements, supporting schedules or other financial data of the Company and its Subsidiaries incorporated by reference in the Registration Statement, the Pricing Disclosure Materials and the Prospectus (it being agreed that the foregoing representation is made only to the Company's actual knowledge without independent investigation with respect to any person who is not a director, officer or employee of the Company or any of its Subsidiaries).

(k) Company and each of its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (v) the interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement and the Prospectus fairly presents the information called for in all material respects and is prepared in accordance with the Commission's rules and guidelines applicable thereto.

(l) Each of the Company and its Subsidiaries has been duly incorporated or organized, as the case may be, and is validly existing as a corporation, partnership, limited liability company or trust, as applicable, in good standing under the laws of the jurisdiction of its incorporation or organization and has the power and authority (corporate or other) to own, lease and operate its properties and to conduct its business as described in the Prospectus and, in the case of the Company, to enter into and perform its obligations under this Agreement. Each of the Company and its Subsidiaries is duly qualified as a foreign corporation, partnership, limited liability company or trust, as applicable, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to be so qualified and in good standing would not, individually or in the aggregate, result in a Material Adverse Change.

(m) The authorized, issued and outstanding capital stock of the Company is as set forth in the Prospectus, Pricing Disclosure Materials and the Registration Statement. The Shares conform in all material respects to the description thereof contained in the Prospectus, Pricing Disclosure Materials and the Registration Statement. All of the issued and outstanding Shares have been duly authorized and validly issued and are fully paid and nonassessable. None of the outstanding Shares were issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company. There are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company or any of its Subsidiaries other than those disclosed in the Prospectus and other than for subsequent issuances, if any, pursuant to the employee benefit plans that are described in the Prospectus. The description of the Company's stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder, set forth in the Prospectus accurately and fairly presents in all material respects the information required to be shown with respect to such plans, arrangements, options and rights.

(n) All of the issued and outstanding capital stock or other equity or ownership interests of each Subsidiary has been duly authorized and validly issued, is fully paid and nonassessable and, except as set forth in the Prospectus, is owned by the Company, directly or through Subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance or adverse claim. The Company does not own or control, directly or indirectly, any corporation, association or other entity other than (i) the Subsidiaries listed in Exhibit 21.1 to the Company's Annual Report on Form 10-K for the year fiscal ended December 31, 2023 and (ii) such other entities omitted from Exhibit 21.1 which, when such omitted entities are considered in the aggregate as a single subsidiary, would not constitute a "significant subsidiary" within the meaning of Rule 1-02(w) of Regulation S-X under the Exchange Act.

(o) The Shares are registered pursuant to Section 12(b) or 12(g) of the Exchange Act and will be approved for listing on The Nasdaq Global Market (the "Exchange") prior to the Closing Date, subject to notice of issuance. The Company has taken no action designed to, or that would be reasonably expected to have the effect of, terminating the registration of the Shares under the Exchange Act or delisting the Shares from the Exchange, nor has the Company received any notification that the Commission or the Exchange is contemplating terminating such registration or listing.

(p) Neither the Company nor any of its Subsidiaries is (i) in breach or violation of (A) its charter or bylaws, partnership agreement or operating agreement or similar organizational document, as applicable, (B) any applicable federal, state, local or foreign law, regulation or rule, except as would not, individually or in the aggregate, result in a Material Adverse Change, or (C) any applicable rule or regulation of any self-regulatory organization or other non-governmental regulatory authority (including, without limitation, the rules and regulations of the Exchange) or (ii) in default in any material respect ("Default") under any indenture, mortgage, loan or credit agreement, note, contract, franchise, lease or other instrument to which the Company or any of its Subsidiaries is a party or by which it or any of them may be bound (including, without limitation, any credit agreement, indenture, pledge agreement, security agreement or other instrument or agreement evidencing, guaranteeing or securing indebtedness of the Company or any of its Subsidiaries), or to which any of the property or assets of the Company or any of its Subsidiaries is subject (each, an "Existing Instrument"), except in the case of clauses (i)(C) and (ii) above, for such breaches, violations or Defaults as would not, individually or in the aggregate, result in a Material Adverse Change. The Company's execution, delivery and performance of this Agreement, consummation of the transactions contemplated hereby and by the Prospectus and the issuance and sale of the Shares (i) will not conflict with or constitute a breach of, or Default or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its Subsidiaries pursuant to, or require the consent of any other party to, any Existing Instrument and (ii) will not result in any violation of any federal, state, local or foreign law, regulation or rule, administrative or court decree or any rule or regulation of any self-regulatory organization or other non-governmental regulatory authority (including, without limitation, the rules and regulations of the Exchange) applicable to the Company or any Subsidiary, except for those conflicts, breaches, Defaults, Debt Repayment Triggering Events or violations that would not, individually or in the aggregate, result in a Material Adverse Change.

No consent, approval, authorization or other order of, or registration or filing with, any court or other governmental or regulatory authority or agency, is required for the Company's execution, delivery and performance of this Agreement and consummation of the transactions contemplated hereby and by the Prospectus, except such as have been obtained or made by the Company and are in full force and effect under the Securities Act, applicable state securities or blue sky laws (the "Blue Sky laws") and from the Exchange. As used herein, a "Debt Repayment Triggering Event" means any event or condition which gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its Subsidiaries.

(q) Except as disclosed in the Registration Statement, the Pricing Disclosure Materials and the Prospectus, there are no legal or governmental actions, suits or proceedings pending or, to the Company's knowledge, threatened (i) against the Company or any of its Subsidiaries, (ii) which have as the subject thereof any officer or director of, or property owned or leased by, the Company or any of its Subsidiaries or (iii) relating to environmental or discrimination matters, where in any such case (A) there is a reasonable possibility that such action, suit or proceeding might be determined adversely to the Company, such Subsidiary or such officer or director, and (B) any such action, suit or proceeding, if so determined adversely, would reasonably be expected to result in a Material Adverse Change or adversely affect the consummation of the transactions contemplated by this Agreement. No material labor dispute with the employees of the Company or any of its Subsidiaries exists or, to the Company's knowledge, is threatened or imminent, which would reasonably be expected to result in a Material Adverse Change.

(r) The Company and its Subsidiaries own or possess sufficient trademarks, trade names, patent rights, copyrights, domain names, licenses, approvals, trade secrets and other similar rights (collectively, "Intellectual Property Rights") reasonably necessary to conduct their businesses as now conducted. Neither the Company nor any of its Subsidiaries has received any notice of infringement or conflict with asserted Intellectual Property Rights of others, which would reasonably be expected to result in a Material Adverse Change. None of the technology employed by the Company or any of its Subsidiaries has been obtained or is being used by the Company or any of its Subsidiaries in violation of any contractual obligation binding on the Company or any of its Subsidiaries or any of its or its Subsidiaries' officers, directors or employees or otherwise in violation of the rights of any persons, except for such violations that would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

(s) The Company and each subsidiary possess such valid and current certificates, authorizations, licenses or permits issued by the appropriate state, local, federal or foreign regulatory agencies or bodies necessary to conduct their respective businesses, other than those the failure to possess or own has not and would not reasonably be expected to result in a Material Adverse Change, and neither the Company nor any subsidiary has received any notice of proceedings relating to the revocation or modification of, or non-compliance with, any such certificate, authorization, license or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in a Material Adverse Change.

(t) Except as disclosed in the Registration Statement, the Pricing Disclosure Materials and the Prospectus, the Company and each of its Subsidiaries has good and valid title to all of the real and personal property and other assets reflected as owned in the financial statements referred to in Section 3(j) above (or elsewhere in the Prospectus), in each case free and clear of any security interests, mortgages, liens, encumbrances, adverse claims and other defects, except such as do not have or result in a Material Adverse Change to the use of such property by the Company or such subsidiary. The real property, improvements, equipment and personal property held under lease by the Company or any Subsidiary are held under valid and enforceable leases, with such exceptions as are not material and do not materially interfere with the use made or proposed to be made of such real property, improvements, equipment or personal property by the Company or such subsidiary.

(u) The Company and its Subsidiaries and to the knowledge of the Company the officers and directors of the Company and its Subsidiaries, in their capacities as such, are, and at the Closing Date and any Applicable Time will be, in compliance in all material respects with the provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated thereunder or implementing the provisions thereof.

(v) The Company and its Subsidiaries have filed all necessary federal, state and foreign income and franchise tax returns (other than certain state or local tax returns, as to which the failure to file, individually or in the aggregate, would not result in a Material Adverse Change) and have paid all taxes required to be paid by any of them and, if due and payable, any related or similar assessment, fine or penalty levied against any of them, except for any such assessment, fine or penalty that is currently being contested in good faith or that if not paid, would not reasonably be expected to have a Material Adverse Change. The Company has made adequate charges, accruals and reserves in the applicable financial statements referred to in Section 3(j) above in respect of all federal, state and foreign income and franchise taxes for all periods as to which the tax liability of the Company or any of its Subsidiaries has not been finally determined.

(w) The Company is not, and will not be, either after receipt of payment for the Shares or after the application of the proceeds therefrom as described under "Use of Proceeds" in the Prospectus, an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(x) Each of the Company and its Subsidiaries are insured with policies in such amounts and with such deductibles and covering such risks as it reasonably deems adequate for their businesses. The Company has no reason to believe that it or any subsidiary will not be able (i) to renew its existing insurance coverage as and when such policies expire or (ii) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not result in a Material Adverse Change.

(y) Common Stock is an "actively traded security" excepted from the requirements of Rule 101 of Regulation M under the Exchange Act ("Regulation M") by subsection (c)(1) of such rule. Neither the Company nor any of its Subsidiaries has taken, directly or indirectly, any action designed to or that might be reasonably expected to cause or result in stabilization or manipulation of the price of the Shares to facilitate the sale or resale of the Shares. The Company acknowledges that the Placement Agent may engage in passive market making transactions in the Shares on the Exchange in accordance with Regulation M under the Exchange Act. The Company acknowledges and agrees that the Placement Agent has informed the Company that the Placement Agent may, to the extent permitted under the Exchange Act, purchase and sell shares of Common Stock for its own account while this Agreement is in effect; *provided* that the Company shall not be deemed to have authorized or consented to any such purchases or sales by the Placement Agent.

(z) There are no business relationships or related-party transactions involving the Company or any of its Subsidiaries or any other person required to be described in the Registration Statement, the Pricing Disclosure Materials and the Prospectus which have not been described as required in all material respects. Neither the Company nor any of its Subsidiaries has extended or maintained credit, arranged for the extension of credit, or renewed any extension of credit, in the form of a personal loan, to or for any director or executive officer (or equivalent thereof) of the Company and/or such subsidiary except for such extensions of credit as are permitted by Section 13(k) of the Exchange Act.

(aa) The Company believes that the statistical, industry and market-related data included in the Registration Statement and the Prospectus is reliable and accurate.

(bb) Neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any employee or agent of the Company or any Subsidiary, has made any contribution or other payment to any official of, or candidate for, any federal, state or foreign office in violation of any law or of the character required to be disclosed in the Registration Statement and the Prospectus.

(cc) The Company has established and maintains disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)), that complies with the requirements of the Exchange Act and that has been designed to ensure that information required to be disclosed by the Company, including its consolidated Subsidiaries, in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure. The Company and its Subsidiaries have carried out evaluations of the effectiveness of their disclosure controls and procedures as required by Rule 13a-15 of the Exchange Act and concluded that such disclosure controls and procedures were effective. Except as disclosed in the Registration Statement, Pricing Disclosure Materials or Prospectus, there are no material weaknesses in the Company's internal control over financial reporting (whether or not remediated). The Company's independent auditors and the Audit Committee of the Board of Directors of the Company have been advised of (i) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which could adversely affect the Company's ability to record, process, summarize and report financial data, and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting. Since December 31, 2023, there has been no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(dd) Except as would not, singly or in the aggregate, reasonably be expected to result in a Material Adverse Change, (i) neither the Company nor any of its Subsidiaries is in violation of any federal, state, local or foreign law or regulation relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products (collectively, "Hazardous Materials") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "Environmental Laws"), (ii) the Company and its Subsidiaries have all permits, authorizations and approvals required under any applicable Environmental Law and are each in compliance with their requirements or (iii) there are no pending or, to the Company's knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or any of its Subsidiaries.

(ee) Except as otherwise disclosed in the Registration Statement, the Pricing Disclosure Materials and the Prospectus, to the Company's knowledge, the Company and its Subsidiaries and any "employee benefit plan" (as defined under the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, "ERISA")) established or maintained by the Company, its Subsidiaries or their "ERISA Affiliates" (as defined below) are in compliance with ERISA, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change. "ERISA Affiliate" means, with respect to the Company or a subsidiary, any member of any group of organizations described in Sections 414(b), (c), (m) or (o) of the Code of which the Company or such subsidiary is a member. No "reportable event" (as defined under ERISA) has occurred or is reasonably expected to occur with respect to any "employee pension benefit plan" (as defined under ERISA) established or maintained by the Company, its Subsidiaries or any of their ERISA Affiliates. No "employee pension benefit plan" established or maintained by the Company, its Subsidiaries or any of their ERISA Affiliates, if such "employee pension benefit plan" were terminated, would have any "amount of unfunded benefit liabilities" (as defined under ERISA). None of the Company, its Subsidiaries or any of their ERISA Affiliates has incurred or reasonably expects to incur any liability under (i) Title IV of ERISA with respect to termination of, or withdrawal from, any "employee pension benefit plan" or (ii) Sections 412, 4971 or 4975 of the Code or (iii) Section 4980B of the Code as a result of a failure to comply with such Section. Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change, each "employee pension benefit plan" established or maintained by the Company, its Subsidiaries or any of their ERISA Affiliates that is intended to be qualified under Section 401(a) of the Code is so qualified and, to the Company's knowledge, nothing has occurred, whether by action or failure to act, which would cause the loss of such qualification.

(ff) Except as otherwise disclosed in the Registration Statement, Pricing Disclosure Materials and the Prospectus, there is no broker, finder or other party that is entitled to receive from the Company any brokerage or finder's fee or other fee or commission as a result of any transactions contemplated by this Agreement.

(gg) Except as would not reasonably be expected to result in a Material Adverse Change, neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its Subsidiaries is aware of or has taken any action, directly or indirectly, that has resulted or would result in a violation of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA") or any other applicable anti-bribery law, including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and the Company and its Subsidiaries and, to the knowledge of the Company, the Company's affiliates have conducted their respective businesses in compliance with the FCPA.

(hh) The operations of the Company and its Subsidiaries are, and have been conducted at all times, in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(ii) Neither the Company nor any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or person acting on behalf of the Company or any of its Subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"); and the Company will not directly or indirectly use the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC or to fund any activities of or business with any person in any country or territory that, at the time of such funding, is subject to any U.S. sanctions administered by OFAC.

(jj) (A) The Company is not aware of any current (or event or condition that would reasonably be expected to result in any future) security breach, unauthorized access or disclosure, or other compromise of the Company's or its Subsidiaries' information technology and computer systems, networks, hardware, software, data and databases used, processed or stored by the Company or its Subsidiaries or on behalf of the Company or its Subsidiaries (collectively, "IT Systems and Data"), except for any such security breach, unauthorized access or disclosure, or other compromise of the Company's or its Subsidiaries' IT Systems and Data that would not be reasonably expected to, individually or in the aggregate, have a Material Adverse Change and (B) the Company and its Subsidiaries have implemented reasonable controls, policies, procedures and technological safeguards designed to maintain and protect the integrity, operation, redundancy and security of their IT Systems and Data to be used in connection with the Company's proposed method of operation. To the Company's knowledge, the Company and its Subsidiaries are presently in material compliance with all applicable laws and regulations, judgments and orders of any court or arbitrator or governmental or regulatory authority and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification, except where failure to be so in compliance would not, individually or in the aggregate, have a Material Adverse Change.

(kk) The statements set forth in the Prospectus under the caption "Description of Capital Stock" insofar as such statements summarize legal matters, agreements, documents or proceedings discussed therein, are accurate summaries of such legal matters, agreements, documents or proceedings in all material respects and there are no contracts or documents that are required to be described in the Prospectus, Pricing Disclosure Materials or to be filed as exhibits to the Registration Statement that have not been so described or filed as required. Any certificate signed by any officer of the Company or any of its Subsidiaries and delivered to the Placement Agent or to counsel for the Placement Agent shall be deemed a representation and warranty by the Company to the Placement Agent as to the matters covered thereby. The Company acknowledges that the Placement Agent and, for purposes of the opinions to be delivered pursuant to Sections 3(b), 6(e) and 6(f) hereof, counsel to the Company and counsel to the Placement Agent, will rely upon the accuracy and truthfulness of the foregoing representations and hereby consents to such reliance.

4. Agreements of the Company. The Company covenants and agrees with the Placement Agent as follows:

(a) The Registration Statement has become effective, and if Rule 430A is used or the filing of the Prospectus is otherwise required under Rule 424(b), the Company will file the Prospectus (properly completed if Rule 430A has been used), subject to the prior approval of the Placement Agent, pursuant to Rule 424(b) within the prescribed time period and will provide a copy of such filing to the Placement Agent promptly following such filing.

(b) The Company will not, during such period as the Prospectus would be required by law to be delivered in connection with sales of the Shares by an underwriter or dealer in connection with the offering contemplated by this Agreement, file any amendment or supplement to the Registration Statement or the Prospectus unless a copy thereof shall first have been submitted to the Placement Agent within a reasonable period of time prior to the filing thereof and the Placement Agent shall not have reasonably objected thereto in good faith.

(c) The Company will notify the Placement Agent promptly, and will, if requested, confirm such notification in writing, (1) when any post-effective amendment to the Registration Statement becomes effective, but only during the period mentioned in Section 4(b); (2) of any request by the Commission for any amendments to the Registration Statement or any amendment or supplements to the Prospectus or any free writing prospectus or for additional information related to the offering of the Shares or for additional information related to the Registration Statement, the Prospectus or any free writing prospectus, but only during the period mentioned in Section 4(b); (3) of the issuance by the Commission of any stop order preventing or suspending the effectiveness of the Registration Statement, or the initiation of any proceedings for that purpose or the threat thereof, but only during the period mentioned in Section 4(b); (4) of becoming aware of the occurrence of any event during the period mentioned in Section 4(b) that in the reasonable judgment of the Company makes any statement made in the Registration Statement, the Pricing Disclosure Materials or the Prospectus untrue in any material respect or that requires the making of any changes in the Registration Statement, the Pricing Disclosure Materials or the Prospectus in order to make the statements therein, in light of the circumstances in which they are made, not misleading; and (5) of receipt by the Company of any notification with respect to any suspension of the qualification of the Shares for offer and sale in any jurisdiction. If at any time the Commission shall issue any order suspending the effectiveness of the Registration Statement in connection with the offering contemplated hereby, the Company will make every commercially reasonable effort to obtain the withdrawal of any such order at the earliest possible moment. If the Company has omitted any information from the Registration Statement, pursuant to Rule 430A, it will use its commercially reasonable efforts to comply with the provisions of and make all requisite filings with the Commission pursuant to said Rule 430A and to notify the Placement Agent promptly of all such filings.

(d) If, at any time when a Prospectus relating to the Shares is required to be delivered under the Act, the Company becomes aware of the occurrence of any event as a result of which the Prospectus, as then amended or supplemented, would, in the reasonable judgment of counsel to the Company or counsel to the Placement Agent, include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or the Pricing Disclosure Materials, as then amended or supplemented, would, in the reasonable judgment of counsel to the Company or counsel to the Placement Agent, include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or the Registration Statement, as then amended or supplemented, would, in the reasonable judgment of counsel to the Company or counsel to the Placement Agent, include any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein not misleading, or if for any other reason it is necessary, in the reasonable judgment of counsel to the Company or counsel to the Placement Agent, at any time to amend or supplement the Prospectus, the Pricing Disclosure Materials or the Registration Statement to comply with the Securities Act or the Rules and Regulations, the Company will promptly notify the Placement Agent and, subject to Section 4(b) hereof, will promptly prepare and file with the Commission, at the Company's expense, an amendment to the Registration Statement, an amendment or supplement to the Pricing Disclosure Materials or an amendment or supplement to the Prospectus that corrects such statement or omission or effects such compliance and will deliver to the Placement Agent, without charge, such number of copies thereof as the Placement Agent may reasonably request. The Company consents to the use of the Prospectus or any amendment or supplement thereto by the Placement Agent.

(e) The Company will furnish, upon request, to the Placement Agent and its counsel, without charge (i) one conformed copy of the Registration Statement as originally filed with the Commission and each amendment thereto, including financial statements and schedules, and all exhibits thereto, (ii) so long as a prospectus relating to the Shares is required to be delivered under the Act, as many copies of each free writing prospectus, Preliminary Prospectus or the Prospectus or any amendment or supplement thereto as the Placement Agent may reasonably request.

(f) The Company will comply with all the undertakings contained in the Registration Statement.

(g) Prior to the sale of the Shares to the Investors, the Company will cooperate with the Placement Agent and its counsel in connection with the registration or qualification of the Shares for offer and sale under the state securities or Blue Sky laws of such jurisdictions as the Placement Agent may reasonably request; provided, that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject.

(h) The Company will not, without the prior written consent of the Placement Agent, offer, sell, contract to sell, pledge, or otherwise dispose of, (or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) by the Company or any controlled affiliate of the Company) directly or indirectly, including the filing (or participation in the filing) of a registration statement with the Commission in respect of, or establish or increase a put equivalent position or liquidate or decrease a call equivalent position within the meaning of Section 16 of the Exchange Act, any other shares of Common Stock or any securities convertible into, or exercisable, or exchangeable for, shares of Common Stock or shares of any class of capital stock of the Company or any securities convertible into, or exercisable, or exchangeable for, any of the foregoing; or publicly announce an intention to effect any such transaction, during the period from the date of this Agreement until thirty (30) days from the date of the Prospectus. The foregoing sentence shall not apply to (A) the Securities to be sold hereunder, (B) any shares of Common Stock issued by the Company upon the exercise of an option or warrant or the conversion of a security outstanding, or as may be contractually obligated to be issued pursuant to agreements in effect on the date hereof and incorporated by reference in the Registration Statement, the Disclosure Package and the Prospectus, and (C) any shares of Common Stock issued or options to purchase Common Stock granted pursuant to employee benefit plans of the Company.

(i) The Company will apply the net proceeds from the offering and sale of the Shares in the manner set forth in the Pricing Disclosure Materials and the Prospectus under the caption "Use of Proceeds."

(j) The Company will use its best efforts to ensure that the Shares are listed or quoted on the Nasdaq Global Market at the time of the Closing.

(k) The Company will not at any time, directly or indirectly, take any action intended, or which might reasonably be expected, to cause or result in, or which will constitute, stabilization of the price of the Shares to facilitate the sale or resale of any of the Shares.

5. Expenses. Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company will pay all of its costs and expenses incident to the performance of the obligations of the Company under this Agreement, including but not limited to costs and expenses of or relating to (1) the preparation, printing and filing of the Registration Statement (including each pre- and post-effective amendment thereto) and exhibits thereto, any free writing prospectus, each Preliminary Prospectus, the Prospectus and any amendments or supplements thereto, including all fees, disbursements and other charges of counsel and Accountants to the Company, (2) the preparation and delivery of certificates representing the Shares, (3) furnishing (including costs of shipping and mailing) such copies of the Registration Statement (including all pre- and post-effective amendments thereto), the Prospectus and any Preliminary Prospectus or free writing prospectus, and all amendments and supplements thereto, as may be reasonably requested for use in connection with the direct placement of the Shares, (4) the listing of the Common Stock on the Nasdaq Global Market, (5) any filings required to be made by the Placement Agent with FINRA, and the fees, disbursements and other charges of counsel for the Placement Agent in connection therewith, (6) the registration or qualification of the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions designated pursuant to Section 4(w), including the reasonable fees, disbursements and other charges of counsel to the Placement Agent in connection therewith and the preparation and printing of preliminary, supplemental and final Blue Sky memoranda, (7) fees, disbursements and other charges of counsel to the Company, and (8) fees and disbursements of the Accountants incurred in delivering the letter(s) described in Section 6(g) of this Agreement.

6. Conditions of the Obligations of the Placement Agent. The obligations of the Placement Agent to place the Shares and consummate the transactions contemplated hereby on the Closing are subject to the following conditions:

(a) (i) No stop order suspending the effectiveness of the Registration Statement shall have been issued, and no proceedings for that purpose shall be pending or threatened by any securities or other governmental authority (including, without limitation, the Commission), (ii) no order suspending the effectiveness of the Registration Statement or the qualification or registration of the Shares under the securities or Blue Sky laws of any jurisdiction shall be in effect and no proceeding for such purpose shall be pending before, or threatened, to the Company's knowledge, in writing by, any securities or other governmental authority (including, without limitation, the Commission), (iii) any request for additional information on the part of the staff of any securities or other governmental authority (including, without limitation, the Commission) shall have been complied with to the satisfaction of the staff of the Commission or such authorities and (iv) after the date hereof and prior to the Closing no amendment or supplement to the Registration Statement, any free writing prospectus or the Prospectus shall have been filed unless a copy thereof was first submitted to the Placement Agent and the Placement Agent did not object thereto in good faith.

(b) Since the respective dates as of which information is given in the Registration Statement, the Pricing Disclosure Materials and the Prospectus, (i) there shall not have been a Material Adverse Change, whether or not arising from transactions in the ordinary course of business, in each case other than as set forth in or contemplated by the Registration Statement, the Pricing Disclosure Materials and the Prospectus and (ii) the Company shall not have sustained any material loss or material interference with its business or properties from fire, explosion, flood or other casualty, whether or not covered by insurance, or from any labor dispute or any court or legislative or other governmental action, order or decree, which is not set forth in the Registration Statement, the Pricing Disclosure Materials and the Prospectus, if in the reasonable judgment of the Placement Agent any such development makes it impracticable or inadvisable to consummate the sale and delivery of the Shares to Investors as contemplated hereby.

(c) Since the respective dates as of which information is given in the Registration Statement, the Pricing Disclosure Materials and the Prospectus, there shall have been no litigation or other proceeding instituted against the Company or any of its officers or directors in their capacities as such, before or by any Federal, state or local court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, which litigation or proceeding, in the reasonable judgment of the Placement Agent, would have a Material Adverse Effect.

(d) Each of the representations and warranties of the Company contained herein shall be true and correct in all material respects at the Closing Date, as if made on such date, and all covenants and agreements herein contained to be performed on the part of the Company and all conditions herein contained to be fulfilled or complied with by the Company at or prior to the Closing Date shall have been duly performed, fulfilled or complied with in all material respects.

(e) The Placement Agent shall have received an opinion, dated the Closing Date, of Haynes and Boone LLP as counsel to the Company, in form and substance reasonably satisfactory to the Placement Agent.

(f) The Placement Agent shall have received an opinion, dated the Closing Date, of Mayer Brown LLP, as counsel to the Placement Agent, in form and substance reasonably satisfactory to the Placement Agent.

(g) On the date hereof, the Accountants shall have furnished to the Placement Agent a letter, dated the date of its delivery (the "Comfort Letter"), addressed to the Placement Agent and in form and substance satisfactory to the Placement Agent and addressing such matters as are customary for the type of transactions contemplated by this Agreement and the Prospectus, (i) confirming that they are independent public accountants with respect to the Company within the meaning of the Securities Act and the Rules and Regulations and (ii) stating, as of the date hereof (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Pricing Disclosure Materials and the Prospectus, as of a date not more than five days prior to the date hereof), the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants' "comfort letters" in connection with registered public offerings. At the Closing Date, the Accountants shall have furnished to the Placement Agent a letter, dated the date of its delivery (the "Bring-Down Letter"), addressed to the Placement Agent and in form and substance satisfactory to the Placement Agent, (i) confirming that they are independent public accountants with respect to the Company within the meaning of the Securities Act and the Rules and Regulations, (ii) stating, as of the date of the Bring-Down Letter (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Pricing Disclosure Materials and the Prospectus, as of a date not more than five days prior to the date of the Bring-Down Letter), the conclusions and findings of such firm with respect to the financial information and other matters covered by the Comfort Letter and (iii) confirming in all material respects the conclusions and findings set forth in the Comfort Letter.

(h) At the Closing Date, there shall be furnished to the Placement Agent a certificate, dated the date of its delivery, signed by each of the Chief Executive Officer and the Chief Financial Officer of the Company, in form and substance satisfactory to the Placement Agent to the effect that each signer has carefully examined the Registration Statement, the Prospectus and the Pricing Disclosure Materials, and that to each of such person's knowledge:

1. (A) As of the date of such certificate, (x) the Registration Statement does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading and (y) neither the Prospectus nor the Pricing Disclosure Materials contains any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading and (B) no event has occurred as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein not untrue or misleading in any material respect.

2. Each of the representations and warranties of the Company contained in this Agreement were, when originally made, and are, at the time such certificate is delivered, true and correct in all material respects.

3. Each of the covenants required herein to be performed by the Company on or prior to the date of such certificate has been duly, timely and fully performed in all material respects and each condition herein required to be complied with by the Company on or prior to the delivery of such certificate has been duly, timely and fully complied with in all material respects.

4. Subsequent to the date of the most recent financial statements in the Prospectus, there has been no Material Adverse Change.

5. No order suspending the effectiveness of the Registration Statement or the qualification or registration of the Shares under the securities or Blue Sky laws of any jurisdiction are in effect and no proceeding for such purpose is pending before, or threatened, to the Company's knowledge, in writing by, any securities or other governmental authority (including, without limitation, the Commission).

(i) At the Closing Date, there shall be furnished to the Placement Agent a certificate, dated the date of its delivery, signed by the Secretary of the Company, in form and substance satisfactory to the Placement Agent as to matters customary to the closing of the transactions of the type contemplated hereby.

(j) The Shares shall be qualified for sale in such states as the Placement Agent may reasonably request, subject to the limitations set forth in the proviso in Section 4(g).

(k) The Company shall have furnished or caused to be furnished to the Placement Agent such customary closing certificates, in addition to those specifically mentioned herein, as the Placement Agent may have reasonably requested as to the accuracy and completeness at the Closing Date of any statement in the Registration Statement, the Pricing Disclosure Materials or the Prospectus, as to the accuracy at the Closing Date of the representations and warranties of the Company as to the performance by the Company of its obligations hereunder, or as to the fulfillment of the conditions concurrent and precedent to the obligations hereunder of the Placement Agent.

(l) The Placement Agent shall have received letters from certain Company insiders, agreed to by the Company and the Placement Agent (which consent will not be unreasonably withheld), substantially in the form of Schedule 1.

7. Indemnification.

(a) The Company shall indemnify and hold harmless the Placement Agent, its respective directors, officers, employees and agents and each person, if any, who controls the Placement Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, liabilities, expenses and damages, joint or several, (including any and all investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted), to which it, or any of them, may become subject under the Securities Act or other Federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, liabilities, expenses or damages arise out of or are based on (i) any untrue statement or alleged untrue statement made by the Company in Section 3 of this Agreement, (ii) any untrue statement or alleged untrue statement of any material fact contained in (A) any Preliminary Prospectus, the Registration Statement or the Prospectus or any amendment or supplement thereto, (B) any free writing prospectus or any amendment or supplement thereto or (C) any application or other document, or any amendment or supplement thereto, executed by the Company based upon written information furnished by or on behalf of the Company filed in any jurisdiction in order to qualify the Shares under the securities or Blue Sky laws thereof or filed with the Commission or any securities association or securities exchange (each, an "Application"), or (iii) the omission or alleged omission to state in any Preliminary Prospectus, the Registration Statement, the Prospectus or any free writing prospectus, or any amendment or supplement thereto, or in any Application a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading; provided, however, that the Company will not be liable to the extent that such loss, claim, liability, expense or damage arises from the sale of the Shares in the public offering to any person and is based solely on an untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information relating to the Placement Agent furnished in writing to the Company by the Placement Agent expressly for inclusion in the Registration Statement, any Preliminary Prospectus, the Prospectus, any free writing prospectus or in any amendment or supplement thereto or in any Application (as set forth in subsection (b) below); and provided further, that such indemnity with respect to any Preliminary Prospectus or free writing prospectus shall not inure to the benefit of the Placement Agent (or any person controlling the Placement Agent) from whom the person asserting any such loss, claim, damage, liability or action purchased Shares which are the subject thereof to the extent that any such loss, claim, damage or liability (i) results from the fact that the Placement Agent failed to send or give a copy of the Prospectus (as amended or supplemented) to such person at or prior to the confirmation of the sale of such Shares to such person in any case where such delivery is required by the Securities Act and (ii) arises out of or is based upon an untrue statement or omission of a material fact contained in such Preliminary Prospectus or free writing prospectus that was corrected in the Prospectus (or any amendment or supplement thereto), unless such failure to deliver the Prospectus (as amended or supplemented) was the result of noncompliance by the Company with Section 4(c). This indemnity agreement will be in addition to any liability which the Company may otherwise have.

(b) The Placement Agent will indemnify and hold harmless the Company, each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, each director of the Company and each officer of the Company who signs the Registration Statement to the same extent as the foregoing indemnity from the Company to the Placement Agent, but only insofar as losses, claims, liabilities, expenses or damages arise out of or are based on any untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information relating to the Placement Agent furnished in writing to the Company by the Placement Agent expressly for use in the Registration Statement, any Preliminary Prospectus, the Prospectus or any free writing prospectus. This indemnity agreement will be in addition to any liability that the Placement Agent might otherwise have. The Company acknowledges that, for all purposes under this Agreement, the name of the Placement Agent and the paragraph relating to the Placement Agents' fees and reimbursement of expenses appearing under the caption "Plan of Distribution" in the Prospectus constitute the only information relating to the Placement Agent furnished in writing to the Company by the Placement Agent expressly for inclusion in the Registration Statement, any Preliminary Prospectus or the Prospectus.

(c) Any party that proposes to assert the right to be indemnified under this Section 7 will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim is to be made against an indemnifying party or parties under this Section 7, notify each such indemnifying party of the commencement of such action, enclosing a copy of all papers served, but the omission so to notify such indemnifying party will not relieve it from any liability that it may have to any indemnified party under the foregoing provisions of this Section 7 unless, and only to the extent that, such omission results in the forfeiture of substantive rights or defenses by the indemnifying party. If any such action is brought against any indemnified party and it notifies the indemnifying party of its commencement, the indemnifying party will be entitled to participate in and, to the extent that it elects by delivering written notice to the indemnified party promptly after receiving notice of the commencement of the action from the indemnified party, jointly with any other indemnifying party similarly notified, to assume the defense of the action, with counsel reasonably satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its election to assume the defense, the indemnifying party will not be liable to the indemnified party for any legal or other expenses except as provided below and except for the reasonable costs of investigation subsequently incurred by the indemnified party in connection with the defense. The indemnified party will have the right to employ its own counsel in any such action, but the fees, expenses and other charges of such counsel will be at the expense of such indemnified party unless (1) the employment of counsel by the indemnified party has been authorized in writing by the indemnifying party, (2) the indemnified party has reasonably concluded (based on written advice of counsel) that a conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party that would prevent the counsel selected by the indemnifying party from representing the indemnified party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party) or (3) the indemnifying party has not in fact employed counsel to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable fees, disbursements and other charges of counsel will be at the expense of the indemnifying party or parties. It is understood that the indemnifying party or parties shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time for all such indemnified party or parties. All such fees, disbursements and other charges will be reimbursed by the indemnifying party promptly as they are incurred following submission of invoices (including time and expense descriptions) to the indemnifying party. The indemnifying party will not, without the prior written consent of the indemnified party (which consent will not be unreasonably withheld or delayed), settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which indemnification has been sought hereunder, unless such settlement, compromise or consent includes an unconditional release of the indemnified party from all liability arising out of such claim, action, suit or proceeding. An indemnifying party will not be liable for any settlement of any action or claim effected without its written consent (which consent will not be unreasonably withheld).

(d) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in the foregoing paragraphs of this Section 7 is applicable in accordance with its terms but for any reason is held to be unavailable from the Company or the Placement Agent, the Company and the Placement Agent will contribute to the total losses, claims, liabilities, expenses and damages (including any investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted, but after deducting any contribution received by the Company from persons other than the Placement Agent such as persons who control the Company within the meaning of the Securities Act or the Exchange Act, officers of the Company who signed the Registration Statement and directors of the Company, who also may be liable for contribution) to which the Company and the Placement Agent may be subject in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and the Placement Agent on the other. The relative benefits received by the Company on the one hand and the Placement Agent on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting Company expenses) received by the Company as set forth in the table on the cover page of the Prospectus bear to the fee received by the Placement Agent hereunder. If, but only if, the allocation provided by the foregoing sentence is not permitted by applicable law, the allocation of contribution shall be made in such proportion as is appropriate to reflect not only the relative benefits referred to in the foregoing sentence but also the relative fault of the Company, on the one hand, and the Placement Agent on the other, with respect to the statements or omissions which resulted in such loss, claim, liability, expense or damage, or action in respect thereof, as well as any other relevant equitable considerations with respect to such offering. Such relative fault shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or the Placement Agent, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Placement Agent agree that it would not be just and equitable if contributions pursuant to this Section 7(d) were to be determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, liability, expense or damage, or action in respect thereof, referred to above in this Section 7(d) shall be deemed to include, for purpose of this Section 7(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 7(d), the Placement Agent shall not be required to contribute any amount in excess of the fee received by it, and no person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7(d), any person who controls a party to this Agreement within the meaning of the Securities Act or the Exchange Act will have the same rights to contribution as that party, and each officer of the Company who signed the Registration Statement will have the same rights to contribution as the Company, subject in each case to the provisions hereof. Any party entitled to contribution, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made under this Section 7(d), will notify any such party or parties from whom contribution may be sought, but the omission so to notify will not relieve the party or parties from whom contribution may be sought from any other obligation it or they may have under this Section 7(d). No party will be liable for contribution with respect to any action or claim settled without its written consent (which consent will not be unreasonably withheld).

8. Termination.

The obligations of the Placement Agent under this Agreement may be terminated at any time prior to the Closing Date, by notice to the Company from the Placement Agent, without liability on the part of the Placement Agent to the Company if, prior to delivery and payment for the Shares, in the sole judgment of the Placement Agent (i) trading in the Common Stock of the Company shall have been suspended by the Commission or by the Nasdaq Global Market, (ii) trading in securities generally on the Nasdaq Global Market shall have been suspended or limited or minimum or maximum prices shall have been generally established on any of such exchange or additional material governmental restrictions, not in force on the date of this Agreement, shall have been imposed upon trading in securities generally by any of such exchange or by order of the Commission or any court or other governmental authority, (iii) a general banking moratorium shall have been declared by Federal or New York State authorities, or (iv) any material adverse change in the financial or securities markets in the United States or any outbreak or material escalation of hostilities or declaration by the United States of a national emergency or war or other calamity or crisis shall have occurred, the effect of any of which is such as to make it, in the sole judgment of the Placement Agent, impracticable or inadvisable to market the Shares on the terms and in the manner contemplated by the Prospectus.

9. No Fiduciary Duty. The Company acknowledges and agrees that in connection with this offering, sale of the Shares or any other services the Placement Agent may be deemed to be providing hereunder, notwithstanding any preexisting relationship, advisory or otherwise, between the parties or any oral representations or assurances previously or subsequently made by the Placement Agent: (i) no fiduciary or agency relationship between the Company and any other person, on the one hand, and the Placement Agent, on the other, exists; (ii) the Placement Agent is not acting as an advisor, expert or otherwise, to the Company, including, without limitation, with respect to the determination of the offering price of the Shares, and such relationship between the Company, on the one hand, and the Placement Agent, on the other, is entirely and solely commercial, based on arms-length negotiations; (iii) any duties and obligations that the Placement Agent may have to the Company shall be limited to those duties and obligations specifically stated herein; and (iv) the Placement Agent and its respective affiliates may have interests that differ from those of the Company. The Company hereby waives any claims that the Company may have against the Placement Agent with respect to any breach of fiduciary duty in connection with this offering.

10. Notices. Notice given pursuant to any of the provisions of this Agreement shall be in writing and, unless otherwise specified, shall be mailed or delivered (a) if to the Company, at the office of the Company, 13139 Jess Pirtle Blvd Sugar Land, Texas 77478, Attention: David C. Kuo, with a copy to 1221 McKinney Street, Suite 4000, Houston, TX 77010-2007, Attention: Frank Wu, or (b) if to the Placement Agent, 880 Carillon Parkway, St. Petersburg, FL 33716, Attention: Legal Department with a copy to 1221 Avenue of the Americas New York, New York 10020-1001, Attention: Anna T. Pinedo, Esq. Any such notice shall be effective only upon receipt. Any notice under Section 7 may be made by facsimile or telephone, but if so made shall be subsequently confirmed in writing.

11. Survival. The respective representations, warranties, agreements, covenants, indemnities and other statements of the Company and the Placement Agent set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement shall remain in full force and effect, regardless of (i) any investigation made by or on behalf of the Company, any of its officers or directors, the Placement Agent or any controlling person referred to in Section 7 hereof and (ii) delivery of and payment for the Shares. The respective agreements, covenants, indemnities and other statements set forth in Sections 6 and 8 hereof shall remain in full force and effect, regardless of any termination or cancellation of this Agreement.

12. Successors. This Agreement shall inure to the benefit of and shall be binding upon the Placement Agent, the Company and their respective successors and legal representatives, and nothing expressed or mentioned in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement, or any provisions herein contained, this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person except that (i) the indemnification and contribution contained in Sections 7(a) and (d) of this Agreement shall also be for the benefit of the directors, officers, employees and agents of the Placement Agent and any person or persons who control the Placement Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act and (ii) the indemnification and contribution contained in Sections 7(a) and (d) of this Agreement shall also be for the benefit of the directors of the Company, the officers of the Company who have signed the Registration Statement and any person or persons who control the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act. No Investor shall be deemed a successor because of such purchase.

13. Applicable Law. The validity and interpretations of this Agreement, and the terms and conditions set forth herein, shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any provisions relating to conflicts of laws.

14. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15. Entire Agreement. This Agreement constitutes the entire understanding between the parties hereto as to the matters covered hereby and supersedes all prior understandings, written or oral, relating to such subject matter.

Please confirm that the foregoing correctly sets forth the agreement between the Company and the Placement Agent.

Very truly yours,

APPLIED OPTOELECTRONICS, INC.

By: /s/ Stefan Murry
Name: Stefan Murry
Title: CFO

Confirmed as of the date first
above mentioned:

RAYMOND JAMES & ASSOCIATES, INC.

By: /s/ Peter Pergola
Name: Peter Pergola
Title: Equity Capital Markets

SCHEDULE 1

Form of Lock-Up Agreement

December __, 2024

Raymond James & Associates, Inc.
880 Carillon Parkway
St. Petersburg, FL 33716

Applied Optoelectronics, Inc. Lock-Up Agreement

Ladies and Gentlemen:

This letter agreement (this "Agreement") relates to the proposed offering (the "Offering") by Applied Optoelectronics, Inc., a Delaware corporation (the "Company"), of shares of its common stock, $0.001 par value per share (the "Shares").

In order to induce you, Raymond James & Associates, Inc., as the Placement Agent pursuant to the Placement Agency Agreement (the "Placement Agreement") to be entered into in connection with the offering of the Shares, the undersigned hereby agrees that, without the prior written consent of the Placement Agent, during the period from the date hereof until thirty (30) days from the date of the final prospectus relating to the Offering (the "Lock-Up Period"), the undersigned (a) will not offer, pledge, sell, contract to sell, grant any option or contract to purchase, purchase any option or contract to sell, or otherwise dispose of, directly or indirectly, any Relevant Security (as defined below) or any securities convertible into, exercisable for, or exchangeable for shares of Relevant Security and (b) will not enter into any swap, derivative or other transaction or arrangement that transfers to another, in whole or in part, any economic consequence of ownership of a Relevant Security, whether or not such transaction is to be settled by delivery of Relevant Securities, other securities, cash or other consideration. The foregoing sentence shall not apply to:

(1) the transfer of shares of a Relevant Security by the undersigned (a) by *bona fide* gift or gifts, will or intestacy; or (b) to the immediate family of the undersigned or any trust or other entity formed for estate planning purposes for the direct or indirect benefit of the undersigned or the immediate family of the undersigned (for purposes of this Agreement, "immediate family" shall mean any relationship by blood, marriage or adoption, not more remote than first cousin);

(2) transfers of shares of a Relevant Security to accounts that the undersigned controls that results only in a change in the form of the undersigned's beneficial ownership of securities without changing the undersigned pecuniary interest in the securities and does not result in the obligation to file a report pursuant to Section 16 of the Securities Exchange Act of 1934, as amended (the "Exchange Act");

(3) the transfer of shares of a Relevant Security by operation of law, including pursuant to a domestic order or a negotiated divorce settlement;

(4) the transfer of shares of a Relevant Security to the Company upon a vesting event of such Relevant Security or upon the exercise of options or warrants to purchase shares of such Relevant Security, in each case on a "cashless" or "net exercise" basis or to cover tax withholding obligations of the undersigned in connection with such vesting or exercise;

(5) the grant or exercise of stock options granted pursuant to the Company's existing stock option plans; and

(6) transfers or sales of a Relevant Security pursuant to Rule 10b5-1 trading plans in effect on the date hereof.

Notwithstanding the foregoing, the undersigned may transfer Relevant Securities pursuant to clauses (1) through (6) above, *provided* that for clauses (1), (2) and (3) above, (i) any resulting donee, trustee, distributee, or transferee, as the case may be, of Relevant Securities executes and delivers to you an agreement satisfactory to you certifying that such transferee is bound by the terms of this Agreement and has been in compliance with the terms hereof since the date first above written as if it had been an original party hereto; (ii) any such transfer shall not involve a disposition for value; (iii) such transfers are not required to be reported with the Securities and Exchange Commission (the "SEC") on Form 4 in accordance with Section 16 of the Exchange Act; and (iv) the undersigned does not otherwise voluntarily effect any public filing or report regarding such transfers during the Lock-Up Period. In addition, in the case of any transfer or sale pursuant to clause (6) above, any required filing under Section 16(a) of the Exchange Act shall clearly indicate in the footnotes thereto that such transfer or sale was made pursuant to a Rule 10b5-1 trading plan.

As used herein, "Relevant Security" means the capital stock, any other equity security of the Company and any security convertible into, or exercisable or exchangeable for, any of the Company's capital stock or other such equity security, whether now owned or hereafter acquired by the undersigned or may be deemed to be beneficially owned by the undersigned.

The undersigned hereby authorizes the Company during the Lock-Up Period to cause any transfer agent for the Relevant Securities to decline to transfer, and to note stop transfer restrictions on the stock register and other records relating to, Relevant Securities for which the undersigned is the record holder if such transfer would constitute a violation or breach of this Agreement and, in the case of Relevant Securities for which the undersigned is the beneficial but not the record holder, agrees during the Lock-Up Period to cause the record holder to cause the relevant transfer agent to decline to transfer, and to note stop transfer restrictions on the stock register and other records relating to, such Relevant Securities if such transfer would constitute a violation or breach of this Agreement. The undersigned hereby further agrees that, without the prior written consent of the Placement Agent, during the Lock-up Period the undersigned (x) will not file or participate in the filing with the SEC of any registration statement, or circulate or participate in the circulation of any preliminary or final prospectus or other disclosure document with respect to any proposed offering or sale of a Relevant Security and (y) will not exercise any rights the undersigned may have to require registration with the Securities and Exchange Commission of any proposed offering or sale of a Relevant Security.

It is understood that the undersigned will automatically be released from the obligations under this Agreement if (a) the Placement Agreement (other than the provisions thereof that survive termination) shall terminate or be terminated prior to payment for and delivery of the Shares, or (b) the Company advises the Placement Agent in writing prior to the execution of the Placement Agreement that it has determined not to proceed with the Offering.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Agreement and that this Agreement constitutes the legal, valid and binding obligation of the undersigned, enforceable in accordance with its terms. Any obligations of the undersigned shall be binding upon the successors and assigns of the undersigned from the date first above written.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Delivery of a signed copy of this letter by facsimile transmission shall be effective as delivery of the original hereof.

(*Signature page follows*)

Very truly yours,

By: _____

Print Name: _____

SCHEDULE 2

FREE WRITING PROSPECTUSES

None.

SCHEDULE 3

TERM SHEET INFORMATION

Issuer:	Applied Optoelectronics, Inc.
Security:	1,036,459 shares of common stock, par value $0.001 per share
Public Offering Price:	$33.97 per share.
Estimated Net Proceeds to the Issuer:	Approximately $30,167,669, after deducting placement agent fees and commissions and estimated offering expenses payable by us.

Exhibit 5.1

HAYNES BOONE

December 20, 2024

Applied Optoelectronics, Inc.
13139 Jess Pirtle Blvd.
Sugar Land, TX 77478

Ladies and Gentlemen:

We have acted as counsel for Applied Optoelectronics, Inc., a Delaware corporation (the "***Company***"), in connection with the issuance and sale by the Company of 1,036,458 shares of the Company's common stock, $0.001 par value per share (the "***Common Stock***") (the "***Shares***"), registered pursuant to (i) the Registration Statement on Form S-3 (File No. 333-283905) (including the prospectus contained therein, the "***Registration Statement***") filed with the Securities and Exchange Commission (the "***Commission***"); (ii) the preliminary prospectus supplement, filed on December 18, 2024 (the "***Preliminary Prospectus Supplement***") and (iii) the final prospectus supplement, filed on December 20, 2024 (the "***Final Prospectus Supplement***"), relating to the issuance and sale of the Shares. The Shares are to be issued and sold by the Company pursuant to a Placement Agency Agreement, dated December 18, 2024 (the "***Agency Agreement***"), between the Company and Raymond James & Associates, Inc.

For purposes of the opinion we express below, we have examined originals, or copies certified or otherwise identified, of (i) the certificate of incorporation and bylaws, each as amended to date, of the Company (the "***Company Charter Documents***"); (ii) the Registration Statement and all exhibits thereto; (iii) the Prospectus Supplement and all exhibits thereto; (iv) the Agency Agreement and all exhibits thereto; (v) the minutes and records of the corporate proceedings of the Company with respect to the filing of the Registration Statement, the Preliminary Prospectus Supplement and the Final Prospectus Supplement and the entering into of the Agency Agreement; and (vi) such other corporate records of the Company as we have deemed necessary or appropriate for purposes of the opinion hereafter expressed.

As to questions of fact material to the opinion expressed below, we have, without independent verification of their accuracy, relied to the extent we deem reasonably appropriate upon the representations and warranties of the Company contained in such documents, records, certificates, instruments or representations furnished or made available to us by the Company.

In making the foregoing examination, we have assumed (i) the genuineness of all signatures, (ii) the authenticity of all documents submitted to us as originals, (iii) the conformity to original documents of all documents submitted to us as certified or photostatic copies, (iv) that all agreements or instruments we have examined are the valid, binding and enforceable obligations of the parties thereto, and (v) that all factual information on which we have relied was accurate and complete.

We have also assumed that (i) the Preliminary Prospectus Supplement and the Final Prospectus Supplement have each been timely filed with the Commission; (ii) the Company will issue and deliver the Shares in the manner contemplated by the Registration Statement, the Final Prospectus Supplement and the Agency Agreement; (iii) the Shares will be issued in compliance with applicable federal and state securities law; (iv) no stop orders of the Commission preventing or suspending the use of the Final Prospectus Supplement will have been issued; and (v) the Company will receive consideration for the issuance of the Shares that is at least equal to the par value of the Common Stock.

Based on the foregoing, and subject to the limitations and qualifications set forth herein, we are of the opinion that when issued and paid for in accordance with the terms and conditions of the Agency Agreement, the Shares will be validly issued, fully paid and nonassessable.

The opinion expressed herein is limited to the Delaware General Corporation Law as in effect on the date hereof.

We hereby consent to the filing of this letter as Exhibit 5.1 to the Current Report on Form 8-K to be filed by the Company in connection with the issuance and sale of the Shares in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act and to the reference to our firm therein and in the Prospectus Supplement under the caption "Legal Matters." In giving this consent, we do not hereby admit we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Haynes and Boone, LLP

Exhibit 10.1

Exchange Agreement

December 18, 2024

Applied Optoelectronics, Inc.

2.750% Convertible Senior Notes due 2030

The undersigned investor (the "**Investor**"), for itself and on behalf of the beneficial owners listed on Exhibit A hereto ("**Accounts**") for whom the Investor holds contractual and investment authority (each, including the Investor if it is a party exchanging Notes (as defined below), an "**Exchanging Investor**"), hereby agrees to exchange, with Applied Optoelectronics, Inc., a Delaware corporation (the "**Company**"), all of its 5.250% Convertible Senior Notes due 2026, CUSIP 03823U AD4 (the "**Old Notes**") for the Exchange Consideration (as defined below) pursuant to this exchange agreement (the "**Agreement**"). The Investor understands that the exchange (the "**Exchange**") is being made without registration of the offer or sale of the Shares (as defined below) under the Securities Act of 1933, as amended (the "**Securities Act**"), or any securities laws of any state of the United States or of any other jurisdiction pursuant to the provisions of Sections 3(a)(9) and 4(a)(2) of the Securities Act and that each Exchanging Investor participating in the Exchange is required to be an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3), (7), (8), (9) or (12) of Regulation D under the Securities Act that is also a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act. Capitalized terms used but not defined in this Agreement have the respective meanings set forth in the indenture with respect to the Old Notes, dated as of December 5, 2023, between the Company and Computershare Trust Company, N.A., as trustee (the "**Trustee**") (the "**Existing Indenture**"). If only one Exchanging Investor is identified in Exhibit A hereto, then each reference in this Agreement to "Exchanging Investors" will be deemed to be a reference to such Exchanging Investor identified in Exhibit A hereto, *mutatis mutandis*.

On the basis of the representations, warranties and agreements contained in this Agreement, and subject to the terms and conditions hereof, the Investor hereby agrees to exchange, and to cause the other Exchanging Investors to exchange, an aggregate principal amount of the Old Notes set forth on Exhibit A hereto (the "**Exchanged Notes**") for the consideration set forth on Exhibit A hereto for each such Exchanged Note.

The principal amount of the Company's 2.750% Convertible Senior Notes due 2030 (the "**New Notes**") to be delivered for 100% of the principal amount of such Exchanged Notes, as set forth on Exhibit A hereto is referred to as the "**Note Consideration.**" The amount of cash to be delivered for each such Exchanged Note, representing accrued and unpaid interest on each such Exchanged Note, as set forth on Exhibit A hereto, is referred to as the "**Cash Consideration.**" The number of shares of the Company's common stock, $0.001 par value per share (the "**Common Stock**") to be delivered for each such Exchanged Note as set forth on Exhibit A hereto is referred to as the "**Shares**" and, together with the Note Consideration and the Cash Consideration, is referred to as the "**Exchange Consideration**". The value of any and all fractional shares shall be paid in cash as part of the Cash Consideration.

The New Notes will be issued pursuant to an Indenture (the "**New Indenture**"), to be dated as of the Closing Date (as defined below), between the Company, as issuer, and Computershare Trust Company, N.A. as trustee (in such capacity, the "**New Notes Trustee**"), substantially in the form set forth as Exhibit C hereto. The Depository Trust Company ("DTC") will act as securities depositary for the New Notes.

The Company and the Investor agree that no Exchanging Investor shall deliver a Notice of Conversion with respect to any Exchanged Notes and the Investor shall, and shall cause each Exchanging Investor to, hold the Exchanged Notes until the Closing (as defined below). In consideration for the performance of its obligations hereunder (including as described in the immediately preceding sentence), and subject to the terms and conditions set forth herein, the Company hereby agrees to deliver the Exchange Consideration on the Closing Date to each Exchanging Investor in exchange for its Exchanged Notes in accordance with the terms of this Agreement and in accordance with the Exchange Procedures (as defined below).

The Exchange shall occur in accordance with the procedures set forth in Section 3 and Exhibit B.2 hereto (such procedures, the "**Exchange Procedures**"); provided that each of the Company and the Investor (on its own behalf, and on behalf of each other Exchanging Investor) acknowledges that the delivery of the Shares to any Exchanging Investor may be delayed due to procedures and mechanics within the systems of the Trustee, Continental Stock Transfer & Trust Company, The Depository Trust Company ("**DTC**") or the NASDAQ Global Market (the "**NASDAQ-GM**") (including the procedures and mechanics regarding the listing of the Shares on the NASDAQ-GM) or other events beyond the Company's control and that such a delay will not be a breach of this Agreement so long as (i) the Company is using its reasonable best efforts to effect such delivery or (ii) such delay arises due to a failure by Investor to deliver settlement instructions; provided, further, that no delivery of Shares or New Notes will be made until the Exchanged Notes have been received for exchange in accordance with the Exchange Procedures and no accrued interest will be payable by reason of any delay in making such delivery.

The closing of the Exchange (the "**Closing**") shall take place remotely via the exchange of documents and signatures on December 23, 2024, or at such other time and place as the Company and the Investor may mutually agree in writing (the "**Closing Date**"). On the Closing Date, subject to satisfaction of the conditions precedent specified herein and the prior receipt by the Trustee from the Investor of the Exchanged Notes, the Company shall, in accordance with the Exchange Procedures, (i) execute the New Notes and direct the New Notes Trustee to authenticate and, by acceptance of the Investor's deposit instruction through DTC's Deposits and Withdrawal at Custodian ("DWAC") program to the New Notes Trustee for the aggregate principal amount of New Notes, deliver the New Notes (or comply with such other settlement procedures mutually agreed in writing by the Company and the New Notes Trustee), to the DTC account; (ii) deliver the Shares to the DTC account and (iii) deliver the Cash Consideration by wire transfer to the account, in each case specified by the Investor for each relevant Exchanging Investor in Exhibit B.1. All questions as to the form of all documents and the validity and acceptance of the Exchanged Notes and the Exchange Consideration will be determined by the Company, in its sole discretion, which determination shall be final and binding and the Company may request such additional instruments or other documents of conveyance or transfer from the Investor prior to the acceptance of any Exchanged Notes for the Exchange. The Investor hereby, for itself and on behalf of its Accounts, irrevocably (a) waives any and all other rights with respect to such Exchanged Notes and (b) releases and discharges the Company and its Affiliates and representatives from any and all claims, actions, causes or rights, whether known or unknown, contingent or matured, that the undersigned and its Accounts may now have, or may have in the future, arising out of, or related to, such Exchanged Notes.

1. Representations and Warranties and Covenants of the Company. As of the date hereof and the Closing Date, the Company represents and warrants to, and covenants with, the Exchanging Investors that:

(a) The Company is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is formed, and has the requisite power and authority to own its properties and to carry on its business as now being conducted, except as would not reasonably be expected to have a material adverse effect on the results of operations or financial condition of the Company or its subsidiaries, taken as a whole (a "Company Material Adverse Effect"). The Company is duly qualified to do business (where such concept exists) and is in good standing in every jurisdiction (where such concept exists) in which its ownership of property or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to have a Company Material Adverse Effect. The Company has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the Exchange contemplated hereby. No consent, approval, order or authorization of, or registration, declaration or filing with any governmental entity or non-governmental authorities (including NASDAQ-GM, other than the filing with NASDAQ-GM of a Listing of Additional Shares Notification Form, which the Company will so file prior to the issuance of the Shares at Closing to the extent required) is required on the part of the Company or any of its subsidiaries in connection with the execution, delivery and performance by the Company of this Agreement, the New Indenture, the New Notes and the consummation by the Company of the Exchange, except as may be required under any state or federal securities laws or that may be obtained after the Closing without penalty to the Investor or as would not, individually or in the aggregate, materially impair the ability of the Company to perform its obligations under this Agreement, the New Indenture and the New Notes or to consummate the transactions contemplated by this Agreement , the New Indenture or the New Notes. The execution, delivery and performance of this Agreement, the New Indenture, the New Notes and each other instrument or document executed and delivered by the Company in connection with this Agreement and the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of the Company.

(b) This Agreement has been duly authorized, executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to (a) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally and (b) general principles of equity, whether such enforceability is considered in a proceeding at law or in equity (the "Enforceability Exceptions"). This Agreement, the execution, delivery and performance of this Agreement, the New Indenture, the New Notes, including the issuance of the Conversion Shares (as defined below) upon conversion of the New Notes, and the consummation of the Exchange will not violate, conflict with or result in a breach of or default under, assuming the truth and accuracy of the representations and warranties and compliance with the covenants of the Investor herein, (i) the charter, bylaws or other organizational documents of the Company, (ii) any agreement or instrument to which the Company is a party or by which the Company or any of its assets or subsidiaries are bound, or (iii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Company and its subsidiaries, except in the case of clauses (ii) or (iii), where such violations, conflicts, breaches or defaults would not reasonably be expected to have a Company Material Adverse Effect, and would not, individually or in the aggregate, materially impair the ability of the Company to perform its obligations under this Agreement or to consummate the transactions contemplated by this Agreement.

(c) The New Indenture has been duly authorized by the Company and, when duly authorized, executed and delivered in accordance with its terms by the New Notes Trustee, will constitute a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions.

(d) The New Notes to be issued pursuant to this Agreement have been duly authorized by the Company and, when executed, issued, authenticated and delivered in the manner provided for in the New Indenture and in this Agreement, will be validly issued, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions, and will be entitled to the benefits of the New Indenture. Upon the Company's delivery of the New Notes to any Exchanging Investor pursuant to the Exchange, such New Notes will be free and clear of any Liens (as defined in Section 2(c) below).

(e) Subject to the terms of the New Indenture, the New Notes will be convertible into shares of the Company's Common Stock, together with cash in lieu of any fractional share. The Company has duly authorized and reserved a number of shares of Common Stock for issuance upon conversion of the New Notes equal to the maximum number of such shares issuable upon conversion (assuming the maximum increase to the "Conversion Rate" in connection with any "Make-Whole Fundamental Change" (each, as defined in the New Indenture) applies) (the "**Conversion Shares**"), and, when such Conversion Shares are issued upon conversion of the New Notes in accordance with the terms of the New Notes and the New Indenture, such Conversion Shares will be validly issued, fully paid and non-assessable, and the issuance of any such Conversion Shares will not be subject to any preemptive or similar rights.

(f) When delivered to the applicable Exchanging Investor pursuant to the Exchange in accordance with the terms of this Agreement, the Shares, assuming the truth and accuracy of the representations and warranties and compliance with the covenants of the Investor herein, will be validly issued, fully paid and non-assessable and free and clear of any Liens (as defined in Section 2(c) below). Assuming the accuracy of the Investor's and each Exchanging Investor's representations and warranties and compliance with the covenants of the Investor herein, the Shares (a) will be issued in the Exchange exempt from the registration requirements of the Securities Act pursuant to Section 4(a)(2) of the Securities Act and (b) will be issued in compliance with all applicable state and federal laws and, at the Closing, be free of any restrictive legend and any restrictions on resale by such Exchanging Investor subject to the applicable conditions set forth in and pursuant to Rule 144 promulgated under the Securities Act.

(g) Assuming the accuracy of the representations and warranties of the Investor, made on behalf of itself and the Exchanging Investors, it is not necessary to register the issuance of the New Notes in reliance on the exemption from registration set forth under Sections 3(a)(9) and 4(a)(2) of the Securities Act, or to qualify the Indenture under the Trust Indenture Act of 1939, as amended, in connection with the Exchange. Assuming the accuracy of the representations and warranties of the Investor, made on behalf of itself and the Exchanging Investors, based on applicable laws and regulations as of the Closing Date, if and when issued in accordance with the New Indenture, the Conversion Shares will be freely transferable without restrictions as to volume and manner of sale pursuant to Rule 144 under the Securities Act by any Investor that is not, at such time or at any time during the immediately preceding three months, an "affiliate" (as defined in Rule 144 under the Securities Act) of the Company.

(h) The Company is not and, after giving effect to the transactions contemplated by this Agreement, will not be required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Securities and Exchange Commission ("**SEC**") thereunder.

(i) At the Closing, the Shares shall have been approved for listing on the NASDAQ-GM, subject only to official notice of issuance.

(j) At or before the Closing, the Company will have submitted to the NASDAQ-GM a Supplemental Listing Application with respect to the Conversion Shares. The Company will use its commercially reasonable efforts to maintain the listing of the Conversion Shares on the NASDAQ-GM.

(k) At or prior to 8:30 a.m., New York City time, on the first business day after the date hereof, the Company shall file with the Commission a current report on Form 8-K announcing the Exchange, which current report the Company acknowledges and agrees will disclose all confidential information (as described in the Wall Cross Email) to the extent the Company believes such confidential information constitutes material non-public information, if any, with respect to the Exchange or was otherwise communicated by the Company to the Investor in connection with the Exchange.

(l) There is no action, lawsuit, arbitration, claim or proceeding pending or, to the knowledge of the Company, threatened against the Company that would reasonably be expected to materially impede the consummation of the Exchange.

(m) The Covered SEC Filings (as defined below), taken as a whole, do not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Covered SEC Filings, were timely filed, and when they were filed with the SEC, complied as to form in all material respects with the applicable requirements under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"). As used herein, "**Covered SEC Filings**" means each of the following documents, in the form they have been filed with the SEC and including any amendments thereto filed with the SEC: (w) the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023; (x) the Company's Quarterly Reports on Form 10-Q for each of the quarters ended March 31, 2024, June 30, 2024 and September 30, 2024, and (y) the Company's Current Reports on Form 8-K (excluding any Current Reports or portions thereof that are furnished, and not filed, pursuant to Item 2.02 or Item 7.01 of Form 8-K, and any related exhibits) and any other reports filed by the Company pursuant to Section 13(a), Section 14 or Section 15(d) of the Exchange Act, in each case, filed with the SEC after December 31, 2023 and prior to the Closing.

(n) The New Notes, when issued, will not be of the same class (within the meaning of Rule 144A) as securities of the Company that are listed on a national securities exchange registered pursuant to Section 6 of the Exchange Act or quoted in a U.S. automated inter-dealer quotation system.

2. Representations and Warranties and Covenants of the Investor. As of the date hereof and the Closing Date (except as otherwise set forth below), the Investor hereby, for itself and on behalf of the Exchanging Investors, represents and warrants to the Company that:

(a) The Investor and each Exchanging Investor is a corporation, limited partnership, limited liability company or other entity, as the case may be, duly formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation.

(b) The Investor has all requisite corporate (or other applicable entity) power and authority to execute and deliver this Agreement for itself and on behalf of the Exchanging Investors and to carry out and perform its obligations under the terms hereof and the transactions contemplated hereby. This Agreement has been duly authorized, executed and delivered by the Investor and constitutes the valid and binding obligation of the Investor and each Exchanging Investor, enforceable in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. If the Investor is executing this Agreement on behalf of an Account, (i) the Investor has all requisite discretionary and contractual authority to enter into this Agreement on behalf of, and bind, each Account, and (ii) Exhibit A attached to this Agreement contains a true, correct and complete list of (A) the name of each Account and (B) the principal amount of each Account's Exchanged Notes, as applicable.

(c) As of the date hereof and as of immediately prior to the Closing, each of the Exchanging Investors is and will be the sole legal and beneficial owner of the Exchanged Notes set forth on Exhibit A attached to this Agreement and each Exchanging Holder did not, to the best of its knowledge, acquire the Exchanged Notes from an Affiliate (as defined below) of the Company. A holding period of at least one year has elapsed with respect to such Exchanged Notes within the meaning of Rule 144(d) under the Securities Act. The Exchange Investors has good, valid and marketable title to its Exchanged Notes, free and clear of all liens, mortgages, pledges, security interests, restrictions, charges, encumbrances or adverse claims, rights or proxies of any kind ("**Liens**"), including (i) arising by operation of applicable law, (ii) arising by operation of any organizational documents of the Company, the Investor, each Exchanging Investor or the Notes, (iii) that is not terminated on or prior to the Closing, or (iv) created by or imposed by or on the Company. When the Exchanged Notes are exchanged, the Company will acquire good, marketable and unencumbered title thereto, free and clear of all Liens. None of the Exchanging Investors has, nor prior to the Closing, will have, in whole or in part, other than pledges or security interests that an Exchanging Investor may have created in favor of a prime broker under and in accordance with its prime brokerage agreement with such broker, (x) assigned, transferred, hypothecated, pledged, exchanged, submitted for conversion pursuant to the Indenture or otherwise disposed of any of its Exchanged Notes (other than to the Company pursuant hereto), or (y) given any person or entity any transfer order, power of attorney or other authority of any nature whatsoever with respect to its Exchanged Notes.

(d) The execution, delivery and performance of this Agreement by the Investor and compliance by each Exchanging Investor with all provisions hereof and the consummation of the transactions contemplated hereby, will not (i) require any consent, approval, authorization or other order of, or qualification with, any court or governmental body or agency (except as may be required under the securities or "blue sky" laws of the various states), (ii) constitute a breach or violation of any of the terms or provisions of, or result in a default under, (x) the organizational documents of any of the Investor or any Exchanging Investor or (y) any material indenture, loan agreement, mortgage, lease or other agreement or instrument to which the Investor or any of the Exchanging Investors is a party or by which such Investor or Exchanging Investor is bound, or (iii) violate or

conflict with any applicable law or any rule, regulation, judgment, decision, order or decree of any court or any governmental body or agency having jurisdiction over the Investor or any of the Exchanging Investors.

(e) The Investor and each Exchanging Investor will comply with all applicable laws and regulations in effect necessary for each Exchanging Investor to consummate the transactions contemplated hereby, including the Exchange, and obtain any consent, approval or permission required for the transactions contemplated hereby, including the Exchange, and the laws and regulations of any jurisdiction to which the Investor and each such Exchanging Investor is subject, and the Company shall have no responsibility therefor.

(f) The Investor acknowledges that no person has been authorized to give any information or to make any representation or warranty concerning the Company or any of its Affiliates or the Exchange other than the information set forth herein in connection with the Investor's and each Exchanging Investor's examination of the Company and the terms of the Exchange, the New Notes and the Shares, and the Company does not take, and Raymond James & Associates, Inc. ("**Financial Advisor**") does not take, any responsibility for, and neither the Company, its Affiliates nor the Financial Advisor can provide any assurance as to the reliability of, any other information that others may provide to the Investor or any Exchanging Investor.

(g) The Investor and each Exchanging Investor has such knowledge, skill and experience in business, financial and investment matters so that it is capable of evaluating the merits and risks with respect to the Exchange and an investment in the New Notes and the Shares. With the assistance of each Exchanging Investor's own professional advisors, to the extent that the Exchanging Investor has deemed appropriate, such Exchanging Investor has made its own legal, tax, accounting and financial evaluation of the merits and risks of an investment in the New Notes and the Shares and the consequences of the Exchange and this Agreement and the Exchanging Investor has made its own independent decision that the investment in the New Notes and the Shares is suitable and appropriate for the Exchanging Investor. Each Exchanging Investor has considered the suitability of the New Notes and the Shares as an investment in light of such Exchanging Investor's circumstances and financial condition and is able to bear the risks associated with an investment in the New Notes and the Shares.

(h) The Investor confirms that it and each Exchanging Investor is not relying on any communication (written or oral) of the Company, the Financial Advisor or any of their respective Affiliates or representatives as investment advice or as a recommendation to acquire the New Notes or Shares or the Cash Consideration in the Exchange. It is understood that information provided by the Company, the Financial Advisor or any of their respective Affiliates and representatives shall not be considered investment advice or a recommendation to participate in the Exchange, and that none of the Company, the Financial Advisor or any of their respective Affiliates or representatives is acting or has acted as an advisor to the Investor or any Exchanging Investor in deciding to participate in the Exchange.

(i) The Investor confirms that the Company has not (i) given any guarantee, representation or warranty as to the potential success, return, effect or benefit (either legal, regulatory, tax, financial, accounting or otherwise) of an investment in the New Notes or the Shares or (ii) made any representation or warranty to the Investor or any Exchanging Investor regarding the legality of an investment in the New Notes or the Shares under applicable legal investment or similar laws or regulations. In deciding to participate in the Exchange, the Investor is not relying on the advice or recommendations of the Company and the Investor has made its own independent decision that the investment in the New Notes and the Shares is suitable and appropriate for the Investor. The Investor and each Exchanging Investor acknowledges that no person has been authorized to give any information or to make any representation concerning the Company or the Exchange other than as contained in this Agreement, the Covered SEC Filings, and the Comparison of Terms attached hereto as Exhibit F.

(j) The Investor and each Exchanging Investor is familiar with the business and financial condition and operations of the Company and the Investor and each Exchanging Investor has had the opportunity to conduct its own investigation of the Company, the New Notes and the Shares. The Investor and each Exchanging Investor has had access to the filings of the Company with the Securities and Exchange Commission and such other information concerning the Company, the New Notes and the Shares as it deems necessary to enable it to make an informed investment decision concerning the Exchange. The Investor and each Exchanging Investor has been offered the opportunity to ask such questions of the Company and its representatives and received answers thereto, as it deems necessary to enable it to make an informed investment decision concerning the Exchange.

(k) Each Exchanging Investor is an institutional "accredited investor" as defined in Rule 501(a)(1), (2), (3), (7), (8), (9) or (12) under the Securities Act and it and any account (including for purposes of this **Section 2(k)**, the Accounts) for which it is acting (for which it has sole investment discretion) is a "qualified institutional buyer" as defined in Rule 144A under the Securities Act. Each Exchanging Investor is not an entity formed for the sole purpose of acquiring the New Notes or the Shares. The Investor agrees to furnish any additional information reasonably requested by the Company or any of its affiliates to ensure compliance with applicable U.S. federal and state securities laws in connection with the Exchange.

(l) The Investor and each Exchanging Investor is not, and has not been during the consecutive three month period preceding the date hereof and as of the Closing, will not be, a director, officer or "affiliate" within the meaning of Rule 144 promulgated under the Securities Act (an "**Affiliate**") of the Company.

(m) Neither the Investor nor any Exchanging Investor is directly, or indirectly through one or more intermediaries, controlling or controlled by, or under direct or indirect common control with, the Company.

(n) Each Exchanging Investor is acquiring the New Notes and the Shares solely for its own beneficial account (or for any account (including for purposes of this **Section 2(n),** the Accounts) for which it has sole investment discretion), for investment purposes, and not with a view to, or for resale in connection with, any distribution of the New Notes or the Shares. The Investor and each Exchanging Investor understands that the offer and sale of the New Notes and the Shares have not been registered under the Securities Act or any state securities laws and the New Notes and the Shares are being issued without registration under the Securities Act by reason of specific exemption(s) under the provisions thereof which depend in part upon the investment intent of the Exchanging Investors and the accuracy of the other representations and warranties made by the Investor in this Agreement. The Investor and the Exchanging Investors understand that the Company is relying upon the representations, warranties and agreements contained in this Agreement (and any supplemental information provided to the Company by the Investor or the Exchanging Investors) for the purpose of determining whether this transaction meets the requirements for such exemption(s) and to issue the Shares without legends as set forth herein.

(o) The Investor acknowledges that the terms of the Exchange have been mutually negotiated between the Investor and the Company. The Investor was given a meaningful opportunity to negotiate the terms of the Exchange.

(p) The Investor acknowledges that it and each Exchanging Investor had a sufficient amount of time to consider whether to participate in the Exchange and that neither the Company nor the Financial Advisor has placed any pressure on the Investor or any Exchanging Investor to respond to the opportunity to participate in the Exchange. The Investor acknowledges that neither it nor any Exchanging Investor become aware of the Exchange through any form of general solicitation or advertising within the meaning of Rule 502 under the Securities Act or otherwise through a "public offering" under Section 4(a)(2) of the Securities Act. The Investor has not been apprised of the offering of the New Notes by means of any form of general solicitation or general advertising (as those terms are used in Regulation D under the Securities Act) or in any manner involving a public offering within the meaning of Section 4(a)(2) of the Securities Act.

(q) The Investor's and each Exchanging Investor's participation in the Exchange was not conditioned by the Company on the Investor or any Exchanging Investor's exchange of a minimum principal amount of Old Notes for the Consideration.

(r) The Investor will, upon request, execute and deliver, for itself and on behalf of any Exchanging Investor, any additional documents deemed by the Company, the Trustee, the New Notes Trustee or the transfer agent to be reasonably necessary to complete the transactions contemplated by this Agreement.

(s) No later than one (1) business day after the date hereof, the Investor agrees to deliver to the Company settlement instructions substantially in the form of Exhibit B.1 attached to this Agreement for each of the Exchanging Investors.

(t) The Investor acknowledges that the Company may issue appropriate stop-transfer instructions to its transfer agent and may make appropriate notations to the same effect in its books and records to ensure compliance with the provisions of this **Section 2**.

(u) The Investor understands that the Company, the Financial Advisor and others will rely upon the truth and accuracy of the foregoing representations, warranties and covenants and agrees that if any of the representations and warranties deemed to have been made by it or the Exchanging Investors by their participation in the transactions contemplated by this Agreement and acquisition of the New Notes and the Shares are no longer accurate, the Investor shall promptly notify the Company and the Financial Advisor. The Investor understands that, unless the Investor notifies the Company in writing to the contrary before the Closing, each of the Investor's and Exchanging Investors' representations and warranties contained in this Agreement will be deemed to have been reaffirmed and confirmed as of the Closing. If the Investor is exchanging any Exchanged Notes and acquiring the New Notes or the Shares as a fiduciary or agent for one or more accounts (including for purposes of this **Section 2(u)**, the Accounts), it represents that (i) it has sole investment discretion with respect to each such account, (ii) it has full power to make the foregoing representations, warranties and covenants on behalf of such account and (iii) it has contractual authority with respect to each such account.

(v) The Investor acknowledges and agrees that the Financial Advisor has not acted as a financial advisor or fiduciary to the Investor or any Exchanging Investor and that the Financial Advisor and their respective directors, officers, employees, representatives and controlling persons have no responsibility for making, and have not made, any independent investigation of the information contained herein or in the Company's SEC filings and make no representation or warranty to the Investor or any Exchanging Investor, express or implied, with respect to the Company, the Exchanged Notes, the New Notes or the Shares or the accuracy, completeness or adequacy of the information provided to the Investor or any Exchanging Investor or any other publicly available information, nor shall any of the foregoing persons be liable for any loss or damages of any kind resulting from the use of the information contained therein or otherwise supplied to the Investor or any Exchanging Investor.

(w) The Company and its agents shall be entitled to deduct and withhold from any consideration payable pursuant to this Agreement such amounts as may be required to be deducted or withheld under applicable law, and shall be timely provided with an Internal Revenue Service ("**IRS**") Form W-9 or the appropriate series of IRS Form W-8, as applicable, in order to establish whether any Exchanging Investor is entitled to an exemption from (or reduction in the rate of) withholding. To the extent any such amounts are withheld and remitted to the appropriate taxing authority, such amounts shall be treated for all purposes as having been paid to the Exchanging Investor to whom such amounts otherwise would have been paid.

(x) The Investor and each Exchanging Investor acknowledges and understands that at the time of the Closing, the Company may be in possession of material non-public information not known to the Investor or any Exchanging Investor that may impact the value of the Old Notes, including the Exchanged Notes, the New Notes and the Shares ("**Information**") that the Company has not disclosed to the Investor or any Exchanging Investor. The Investor and each Exchanging Investor acknowledges that they have not relied upon the non-disclosure of any such Information for purposes of making their decision to participate in the Exchange. The Investor and each Exchanging Investor understands, based on its experience, the disadvantage to which the Investor and each Exchanging Investor is subject due to the disparity of information between the Company, on the one hand, and the Investor and each Exchanging Investor, on the other hand. Notwithstanding this, the Investor and each Exchanging Investor has deemed it appropriate to participate in the Exchange. The Investor agrees that the Company and its directors, officers, employees, agents, stockholders and affiliates shall have no liability to the Investor or any Exchanging Investor or their respective beneficiaries whatsoever due to or in connection with the Company's use or non-disclosure of the Information or otherwise as a result of the Exchange, and the Investor hereby irrevocably waives any claim that it or any Exchanging Investor might have based on the failure of the Company to disclose the Information.

(y) The Investor and each Exchanging Investor understands that no federal, state, local or foreign agency has passed upon the merits or risks of an investment in the Shares or the New Notes or made any finding or determination concerning the fairness or advisability of this investment.

(z) The operations of the Investor and each Exchanging Investor have been conducted in material compliance with the applicable rules and regulations administered or conducted by the U.S. Department of Treasury Office of Foreign Assets Control ("**OFAC**"), the applicable rules and regulations of the Foreign Corrupt Practices Act ("**FCPA**") and the applicable Anti-Money Laundering ("**AML**") rules in the Bank Secrecy Act. The Investor has performed due diligence necessary to reasonably determine that the Exchanging Investors are not named on the lists of denied parties or blocked persons administered by OFAC, resident in or organized under the laws of a country that is the subject of comprehensive economic sanctions and embargoes administered or conducted by OFAC ("**Sanctions**"), are not otherwise the subject of Sanctions and have not been found to be in violation or under suspicion of violating OFAC, FCPA or AML rules and regulations.

(aa) The Investor acknowledges and agrees that it and each Exchanging Investor has not disclosed, and will not disclose, to any third party any information regarding the Company or the Exchange, and that it has not transacted, and will not transact, in any securities of the Company, including, but not limited to, any hedging transactions, from the time the Investor was first contacted by the Company or the Financial Advisor with respect to the Transactions until after the confidential information (as described in the confirmatory email received by the Investor from the Financial Advisor (the "**Wall Cross Email**")) is made public.

3. Exchange Procedures for Old Notes and New Notes.

(a) Subject to the terms and conditions of this Agreement, the Investor hereby, for itself and on behalf of each Exchanging Investor, assigns and transfers to, or upon the order of, the Company, all right, title and interest in the aggregate principal amount of the Old Notes as indicated under the heading "Aggregate Principal Amount of Exchanged Notes" set forth in Exhibit A hereto, waives any and all other rights with respect to such Old Notes and the Existing Indenture and releases and discharges the Company from any and all claims the Investor and the Accounts may now have, or may have in the future, arising out of, or related to, such Old Notes, including, without limitation, any claims arising from any existing or past defaults under the Existing Indenture, or any claims that the Investor or any Exchanging Investor is entitled to receive additional interest with respect to the Old Notes.

(b) At or prior to 9:30 a.m., New York City time, on the Closing Date, the Investor agrees to direct the eligible DTC participant through which each Exchanging Investor holds a beneficial interest in the Old Notes to submit a withdrawal instruction through DTC's program to the Trustee, for the aggregate principal amount of the Old Notes to be exchanged pursuant to this Agreement (the "**DWAC Withdrawal**").

(c) At or prior to 9:30 a.m. New York City time on the Closing Date, the Investor agrees to direct the eligible DTC participant through which each Exchanging Investor previously held a beneficial interest in the Old Notes (or any other DTC participant of its choosing) to submit a deposit instruction through DTC's DWAC program to the New Notes Trustee, for the aggregate principal amount of New Notes (the "**New Notes DWAC Deposit**") that it is entitled to receive pursuant to this Agreement, or comply with such other settlement procedures mutually agreed in writing by the Investor and the Company. The New Notes will not be delivered until a valid DWAC Withdrawal of the Old Notes has been received and accepted by the Trustee. If the Closing does not occur, any Old Notes submitted for DWAC Withdrawal will be returned to the DTC participant that submitted the withdrawal instruction in accordance with the procedures of DTC. **The Investor acknowledges that each DWAC Withdrawal and New Notes DWAC Deposit must be posted on the Closing Date and that if it is posted before the Closing Date, then it will expire unaccepted and must be resubmitted on the Closing Date.**

(d) The Investor acknowledges and understands that other investors are participating in similar exchanges, each of which contemplates a DWAC Withdrawal and a New Notes DWAC Deposit. The Company intends to complete the New Notes DWAC Deposit concurrently for all investors who have submitted valid DWAC Withdrawals and New Notes DWAC Deposits by the deadline above. In the event that the Investor complies with the deadline above for the DWAC Withdrawal and other investors do not, the Company will use its commercially reasonable efforts to ensure that the New Notes are delivered to the Investor pursuant to the New Notes DWAC Deposit on the Closing Date. However, in the event that such New Notes are not delivered on the Closing Date, the Company will use its commercially reasonable efforts to ensure that they will be delivered on the business day immediately following the Closing Date or as soon as reasonably practicable thereafter.

(e) On the Closing Date, subject to satisfaction of the conditions precedent specified in this Agreement, including the provisions of the preceding paragraphs (a) to (d), and the prior receipt of a valid (I) DWAC Withdrawal conforming with the aggregate principal amount of the Old Notes to be exchanged and (II) New Notes DWAC Deposit, the Company hereby agrees to execute the New Notes, and direct the New Notes Trustee to authenticate and, by acceptance of the New Notes DWAC Deposit, deliver, the New Notes (or comply with such other settlement procedures mutually agreed in writing by the Company and the New Notes Trustee), in each case to the DTC account for New Notes specified on Exhibit B.1 to this Agreement.

(f) If (x) the Trustee is unable to locate the DWAC Withdrawal or the New Notes Trustee is unable to locate the New Notes DWAC Deposit or (y) the DWAC Withdrawal or the New Notes DWAC Deposit does not conform to the Old Notes or the New Notes, respectively, to be exchanged or issued, as applicable, pursuant to this Agreement, the Company will promptly notify the Investor. If, because of the occurrence of an event described in either clause (x) or (y), the New Notes are not delivered on the Closing Date, they will be delivered on the business day following the Closing Date (or as soon as reasonably practicable thereafter) on which the Trustee is able to locate the DWAC Withdrawal or the New Notes Trustee is able to locate the New Notes DWAC Deposit, as applicable (in the case of clause (x)), or the DWAC Withdrawal or New Notes DWAC Deposit, as applicable, conforms to the Old Notes or the New Notes, respectively (in the case of clause (y)).

(g) All questions as to the form of all documents and the validity and acceptance of the Old Notes and the New Notes will be determined by the Company, in its reasonable discretion, which determination will be final and binding.

(h) All authority herein conferred or agreed to be conferred in this Agreement will survive the dissolution of the Investor, and any representation, warranty, undertaking and obligation of the Investor hereunder will be binding upon the trustees in bankruptcy, legal representatives, successors and assigns of the Investor.

4. Consent to First Supplemental Indenture to the Indenture. The Investor hereby irrevocably and unconditionally consents to the entry, execution and delivery of the First Supplemental Indenture, by the Company and the Trustee, in the form attached as Exhibit D hereto and authorizes and directs the Trustee to execute the First Supplemental Indenture and to take all steps necessary to give effect to, and permit, the Proposed Amendments (as defined in the First Supplemental Indenture). To the extent necessary or required by the Trustee or DTC, the Investor agrees to have its custodian or nominee promptly deliver its consent to the First Supplemental Indenture in accordance with customary DTC procedures and to execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to effectuate such consent.

5. Conditions to Obligations of the Investor and the Company. The obligations of the Investor and of the Company under this Agreement are subject to the satisfaction at or prior to the Closing of the following conditions precedent: (a) the representations and warranties of the Company contained in **Section 1** hereof and of the Investor contained in **Section 2** hereof shall be true and correct as of the Closing in all respects with the same effect as though such representations and warranties had been made as of the Closing, (b) the Investor and each other Exchanging Investor shall have complied in all material respects with its obligations hereunder and (c) no provision of any applicable law or any judgment, ruling, order, writ, injunction, award or decree of any governmental authority shall be in effect prohibiting or making illegal the consummation of the transactions contemplated by this Agreement.

6. Waiver, Amendment. Neither this Agreement nor any provisions hereof or thereof shall be modified, changed or discharged, except by an instrument in writing, signed by the Company and the Investor.

7. Assignability. Neither this Agreement nor any right, remedy, obligation or liability arising hereunder or by reason hereof shall be assignable by either the Company or the Investor without the prior written consent of the other; provided; however, that the Company may assign any of its benefits or obligations hereunder to any of its wholly owned subsidiaries (it being understood that the Company shall remain primarily liable for the performance of any such assigned obligations except to the extent fully performed by such wholly owned subsidiary).

8. Waiver of Jury Trial. EACH OF THE COMPANY AND THE INVESTOR HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to such state's rules concerning conflicts of laws that might provide for any other choice of law.

10. Submission to Jurisdiction. Each of the Company and the Investor: (a) agrees that any legal suit, action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be instituted exclusively in the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York; (b) waives any objection that it may now or hereafter have to the venue of any such suit, action or proceeding; and (c) irrevocably consents to the jurisdiction of the aforesaid courts in any such suit, action or proceeding. Each of the Company and the Investor agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

11. Venue. Each of the Company and the Investor irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in **Section 9**. Each of the Company and the Investor irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

12. Service of Process. Each of the Company and the Investor irrevocably consents to service of process in the manner provided for notices in **Section 12**. Nothing in this Agreement will affect the right of the Company or the Investor to serve process in any other manner permitted by law.

13. Notices. All notices and other communications to the Company provided for herein shall be in writing and shall be deemed to have been duly given if delivered personally, sent by prepaid overnight courier (providing written proof of delivery) or sent by confirmed facsimile transmission or electronic mail and will be deemed given on the date so delivered (or, if such day is not a business day, on the first subsequent business day) to the following addresses, or in the case of the Investor, the address provided on Exhibit B.1 attached to this Agreement (or such other address as the Company or the Investor shall have specified by notice in writing to the other):

If to the Company:

Applied Optoelectronics, Inc.
13139 Jess Pirtle Blvd
Sugar Land, TX 77478
Attention: Stefan Murry

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

Haynes Boone, LLP
1221 McKinney Street Suite 4000
Houston, TX 77010
Attention: Frank S. Wu
Email: frank.wu@haynesboone.com

14. Binding Effect. The provisions of this Agreement shall be binding upon and accrue to the benefit of the Company and the Investor and their respective heirs, legal representatives, successors and assigns. This Agreement constitutes the entire agreement between the Company and the Investor with respect to the subject matters hereof. This Agreement may be executed by one or more of the parties hereto in any number of separate counterparts, each of which shall be deemed to be an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

15. Notification of Changes. After the date of this Agreement, each of the Company and the Investor hereby covenants and agrees to notify the other upon the occurrence of any event prior to the Closing of the Exchange pursuant to this Agreement that would cause any representation, warranty or covenant of the Company or the Investor, as the case may be, contained in this Agreement to be false or incorrect.

16. Reliance by Financial Advisor. Financial Advisor may rely on each representation and warranty of the Company and the Investor made herein or pursuant to the terms hereof with the same force and effect as if such representation or warranty were made directly to such Financial Advisor. Financial Advisor shall be a third-party beneficiary of this Agreement to the extent provided in this Section 14.

17. Severability. If any term or provision of this Agreement (in whole or in part) is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

18. Survival. The representations and warranties of the Company and the Investor contained in this Agreement or made by or on behalf of the Exchanging Investors pursuant to this Agreement shall survive the consummation of the transactions contemplated hereby.

19. Termination. This Agreement may be terminated and the transactions contemplated hereby abandoned (a) by mutual agreement of the Company and the Investor in writing or (b) by either the Company or the Investor if the conditions to such party's obligations set forth herein have not been satisfied (unless waived by the party entitled to the benefit thereof), and the Closing has not occurred on or before December 27, 2024 without liability of either the Company or the Investor or the Exchanging Investors, as the case may be; provided that neither the Company nor the Investor shall be released from liability hereunder if the Agreement is terminated and the transactions abandoned by reason of the failure of the Company or the Investor or the Exchanging Investors, as the case may be to have performed its obligations hereunder. Except as provided above, if this Agreement is terminated and the transactions contemplated hereby are not concluded as described above, the Agreement will become void and of no further force and effect.

20. Taxation. The Exchange may be treated as a taxable event for U.S. federal income tax purposes. Investors are urged to consult their own tax advisors regarding the tax consequences of the Exchange to them in their particular circumstances. The Investor acknowledges that, if an Exchanging Investor is a United States person for U.S. federal income tax purposes, either (i) the Company must be timely provided with a correct taxpayer identification number ("**TIN**," which is generally a person's social security or federal employer identification number) and certain other information on a properly completed and executed Form W-9 (or any successor form) which is provided herein on Exhibit E attached to the Agreement, or (ii) another basis for exemption from backup withholding must be established. The Investor further acknowledges that, if an Exchanging Investor is not a United States person for U.S. federal income tax purposes, the Company must be timely provided with a properly completed and executed IRS Form W-8BEN, IRS Form W-8BEN-E, IRS Form W-8IMY (and all required attachments) or other applicable IRS Form W-8 (or any successor form), attesting to that non-U.S. Exchanging Investor's foreign status and certain other information, including information establishing an exemption from withholding under Sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended. The Investor further acknowledges that any Exchanging Investor may be subject to 30% U.S. federal withholding or 24% U.S. federal backup withholding on certain payments made to such Exchanging Investor unless such Exchanging Investor properly establishes an exemption from, or a reduced rate of, such withholding or backup withholding. The Company and its agents shall be entitled to deduct and withhold from any consideration payable pursuant to this Agreement such amounts as are required to be deducted or withheld under applicable law. To the extent any such amounts are withheld and remitted to the appropriate taxing authority, such amounts shall be treated for all purposes as having been paid to the Exchanging Investor to whom such amounts otherwise would have been paid.

[SIGNATURE PAGE FOLLOWS]

Very truly yours,

APPLIED OPTOELECTRONICS, INC.

By _____
Name: Stefan Murry
Title: Chief Financial Officer

Please confirm that the foregoing correctly sets forth the agreement between the Company and the Investor by signing in the space provided below for that purpose.

AGREED AND ACCEPTED:

Investor:
[_____],
in its capacity as described in the first paragraph hereof

By _____
Name:
Title:

EXHIBIT A

Exchanging Investor Information

Exchanging Investor	Aggregate Principal Amount of Exchanged Notes	Aggregate Principal Amount of New Notes	Cash Consideration	Shares
				As set forth below

For each $1,000 principal amount of Exchanged Notes, each Exchanging Investor will receive (a) $[●] principal amount of New Notes, (b) a cash amount equal to the sum of accrued and unpaid interest from December 15, 2024 (the last interest payment date on the Exchanged Notes) to but excluding the date of Closing, and (c) a number of shares of Common Stock equal to the quotient of (i) $[●] divided by (ii) the Last Reported Sale Price (as defined below) on December [●], 2024. The value of any and all fractional shares shall be paid in cash.

Notwithstanding the foregoing, in no event shall the number of shares of Common Stock issuable under this Agreement and in exchange for other Notes pursuant to any other exchange agreement entered into on or about the date of this Agreement (the "**Other Exchange Agreements**") between the Company and holders of such other Notes with respect to the exchange of Notes for Common Stock exceed 19.9% of the Company's issued and outstanding Common Stock on the date hereof (the "**Threshold**"). If such aggregate amount of shares of Common Stock were to exceed the Threshold, (i) the aggregate number of such shares of Common Stock to be issued under this Agreement and the Other Exchange Agreements shall be allocated among the Exchanging Investors and the "Exchanging Investors" under the Other Exchange Agreements on a pro rata basis based on the principal amount of Notes intended to be exchanged by each such Exchanging Investor under this Agreement and the Other Exchange Agreements and (ii) the percentage reduction in the number of shares of Common Stock to be issued under this Agreement pursuant to clause (i) shall be multiplied by the face amount of the Exchanged Notes and such amount of Exchanged Notes shall not be considered Exchanged Notes, shall not be exchanged hereunder and shall be returned to the Investor.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

"**Last Reported 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 bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is traded.

Exchanging Investor:

_____

_____

Investor Address:

_____

_____

_____

Telephone: _____

Country of Residence:

_____

Taxpayer Identification Number:

_____

Account for Shares:

DTC Participant Number: _____
DTC Participant Name: _____
DTC Participant Phone Number: _____
DTC Participant Contact Email: _____
FFC Account #: _____
Account # at Bank/Broker: _____

Account for Old Notes:

DTC Participant Number: _____
DTC Participant Name: _____
DTC Participant Phone Number: _____
DTC Participant Contact Email: _____
FFC Account #: _____
Account # at Bank/Broker: _____

Account for New Notes:

DTC Participant Number: _____
DTC Participant Name: _____
DTC Participant Phone Number: _____
DTC Participant Contact Email: _____
FFC Account #: _____
Account # at Bank/Broker: _____

Wire instructions for Cash Consideration:

Bank Name: _____
Bank Address: _____
ABA Routing #: _____
Account Name: _____
Account Number: _____
FFC Account Name: _____

FFC Account #: _____
Contact Person: _____

Exchanging Investor Address:

_____
_____
_____

Telephone: _____

Country of Residence:

_____

Taxpayer Identification Number:

_____

Exchange Procedures

NOTICE TO INVESTOR

These are the Investor Exchange Procedures for the settlement of the exchange of 5.250% Convertible Senior Notes due 2026, CUSIP 03823U AD4 (the "**Exchanged Notes**") of Applied Optoelectronics Inc., a Delaware corporation (the "**Company**"), for the Note Consideration, Cash Consideration and the Shares (as defined in and pursuant to the Agreement between you and the Company), which is expected to occur on or about December [•], 2024 (the "**Closing Date**"). To ensure timely settlement for the Shares, please follow the instructions as set forth on the following page.

These instructions supersede any prior instructions you received. Your failure to comply with these instructions may delay your receipt of the Shares.

If you have any questions, please contact Peter Pergola of Raymond James & Associates, Inc. at 727-567-2421.

To deliver Exchanged Notes:

You must direct the eligible DTC participant through which you hold a beneficial interest in the Old Notes to post on the Closing Date, no later than 9:30 a.m., New York City time, withdrawal instructions through DTC via DWAC for the aggregate principal amount of Old Notes (CUSIP No. 03823U AD4) set forth in Exhibit A of the Exchange Agreement to be exchanged. **It is important that this instruction be submitted and the DWAC posted on the Closing Date; if it is posted before the Closing Date, then it will expire unaccepted and will need to be re-posted on the Closing Date.**

To receive Exchange Consideration:

To Receive New Notes: You must direct your eligible DTC participant through which you wish to hold a beneficial interest in the New Notes to post on [•], no later than 9:30 a.m., New York City time, a deposit instruction through DTC via DWAC for the aggregate principal amount of New Notes to which you are entitled pursuant to the Exchange. **It is important that this instruction be submitted and the DWAC posted on the Closing Date; if it is posted before the Closing Date, then it will expire unaccepted and will need to be re-posted on the Closing Date.**

If the Closing does not occur, any Old Notes submitted for DWAC Withdrawal will be returned to the DTC participant that submitted the withdrawal instruction in accordance with the procedures of DTC. The Investor acknowledges that each DWAC Withdrawal and New Notes DWAC Deposit must be posted on the Closing Date and that if it is posted before the Closing Date, then it will expire unaccepted and must be resubmitted on the Closing Date.

To Receive Shares: You must direct your eligible DTC participant through which you wish to hold a beneficial interest in the Shares to be issued upon exchange to post **on the Closing Date no later than 9:00 a.m., New York City time**, a one-sided deposit instruction through DTC via DWAC for the Shares deliverable in respect of the Exchanged Notes. **It is important that this instruction be submitted and the DWAC posted on the Closing Date**.

The DTC Participant number of Continental Stock Transfer & Trust, the Transfer Agent and Registrar for the Common Stock, is: [•].

Closing**:** On the Closing Date, after the Company receives your delivery instructions as set forth above and a withdrawal request in respect of the Exchanged Notes has been posted as specified above, and subject to the satisfaction of the conditions to Closing as set forth in your Agreement, the Company will deliver the Exchange Consideration in respect of the Exchanged Notes in accordance with the delivery instructions above.

Exhibit C

Form of Indenture of 2.750% Convertible Senior Notes due 2030

(See Attached)

FORM OF FIRST SUPPLEMENTAL INDENTURE

THIS FIRST SUPPLEMENTAL INDENTURE, dated as of [●], 2024 (this "*Supplemental Indenture*"), is between Applied Optoelectronics, Inc., a Delaware corporation, as issuer (the "*Company*") and Computershare Trust Company, N.A., as trustee (the "*Trustee*") under the Indenture, dated as of December 5, 2023 between the Company and Computershare Trust Company, N.A., as trustee (the "*Indenture*").

RECITALS

WHEREAS, pursuant to the Indenture, the Company issued its 5.250% Convertible Senior Notes due 2026 (the "*Notes*") of which $[80,214,000] in aggregate principal amount are currently outstanding under the Indenture;

WHEREAS, Section 8.02 of the Indenture provides that the Company and the Trustee, with the consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding (the "*Majority Holders*"), may amend, supplement or waive compliance with any provision of the Indenture or the Notes, subject to the limitations set forth therein;

WHEREAS, the Company desires to amend the Indenture, as set forth in Article I of this Supplemental Indenture, to eliminate certain restrictive covenants contained therein, and to provide for certain other amendments, all as further described herein (collectively, the "*Proposed Amendments*");

WHEREAS, the Company has solicited the consents of, among others, Holders constituting not less than the Majority Holders voting as a single class to the Proposed Amendments and to the execution of this Supplemental Indenture;

WHEREAS the Company has now obtained such consents from Holders constituting not less than the Majority Holders voting as a single class, and as such, this Supplemental Indenture, the Proposed Amendments and the Trustee's entry into this Supplemental Indenture are authorized pursuant to Section 8.02 of the Indenture;

WHEREAS, the Company has requested that the Trustee execute and deliver this Supplemental Indenture; and

WHEREAS, pursuant to Section 8.02 of the Indenture, the execution and delivery of this Supplemental Indenture has been duly authorized by the parties hereto and all other acts necessary to make this Supplemental Indenture a valid and binding supplement to the Indenture, effectively amending the Indenture as set forth herein, have been duly taken by the Company.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and for the equal and proportionate benefit of the Holders of the Notes, each party hereto hereby agrees as follows:

ARTICLE I
AMENDMENTS TO INDENTURE

Section 1.01 Amendments to the Indenture. Pursuant to Section 8.02 of the Indenture, the Company and the Trustee (in the case of the Trustee, acting in reliance upon the instructions and directions of Holders constituting not less than the Majority Holders obtained by the Company), hereby agree to amend or supplement certain provisions of the Indenture as follows:

(a) Amendments to Section 1.01 (Definitions).

(i) Section 1.01 of the Indenture is amended by deleting each of the following defined terms and their definitions in their entirety: "Acquired Debt," "Capital Lease Obligation," "Cash Management Services," "Consolidated EBITDA," "Consolidated Leverage Ratio," "Consolidated Net Income," "Credit Facilities," "Deemed Capitalized Leases," "Disqualified Stock," "Existing Indebtedness," "Fixed Charges," "Lien," "Permitted Debt," "Permitted Liens," "Permitted Refinancing Indebtedness," and "Weighted Average Life to Maturity."

(b) Amendment to Section 3.09 (Incurrence of Indebtedness and Issuance of Preferred Stock). Section 3.09 of the Indenture is amended by (i) deleting Section 3.09 and all references and definitions related thereto (to the extent not otherwise used in any other Section of the Indenture or the Notes not affected by this Supplemental Indenture) in their entirety and (ii) substituting the text "Reserved" therefor.

(c) Amendment to Section 3.10 (Liens). Section 3.10 of the Indenture is amended by (i) deleting Section 3.10 and all references and definitions related thereto (to the extent not otherwise used in any other Section of the Indenture or the Notes not affected by this Supplemental Indenture) in their entirety and (ii) substituting the text "Reserved" therefor.

ARTICLE II
MISCELLANEOUS

Section 2.01 Capitalized Terms. Any capitalized term used herein and not otherwise defined herein shall have the meaning assigned to such term in the Indenture.

Section 2.02 Conditions Precedent. The Company represents and warrants that each of the conditions precedent to the amendment and supplement of the Indenture (including such conditions pursuant to Sections 8.02, 8.06, 12.02 and 12.03 of the Indenture) have been satisfied in all respects. Pursuant to Section 8.02 of the Indenture, Holders constituting not less than the Majority Holders voting as a single class have consented to the Proposed Amendments and authorized and directed the Trustee to execute this Supplemental Indenture and to take all steps necessary to give effect to, and permit, the Proposed Amendments.

Section 2.03 Corresponding Amendments. With effect on and from the date hereof, each Global Note shall be deemed supplemented, modified and amended in such manner as necessary to make the terms of such Global Note consistent with the terms of the Indenture, as amended by this Supplemental Indenture. To the extent of any conflict between the terms of the Notes and the terms of the Indenture, as amended by this Supplemental Indenture, the terms of the Indenture, as amended by this Supplemental Indenture, shall govern and be controlling.

Section 2.04 Instruments To Be Read Together; Entire Agreement. This Supplemental Indenture is executed as and shall constitute an indenture supplemental to and in implementation of the Indenture, and said Indenture and this Supplemental Indenture shall henceforth be read together. This Supplemental Indenture constitutes the entire agreement of the parties hereto with respect to the amendments to the Indenture set forth herein.

Section 2.05 Ratification of Indenture. The Indenture, as amended by this Supplemental Indenture, is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. Upon and after the execution of this Supplemental Indenture, each reference in the Indenture, as amended by this Supplemental Indenture, to "this Indenture," "hereunder," "hereof" or words of like import referring to the Indenture shall mean and be a reference to the Indenture, as amended by this Supplemental Indenture. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder shall be bound hereby.

Section 2.06 Headings. The headings of the Articles and Sections of this Supplemental Indenture have been inserted for convenience of reference only, and are not to be considered a part hereof and shall in no way modify or restrict any of the terms and provisions hereof.

Section 2.07 Responsibility of Trustee. The recitals and statements contained herein shall be taken as the statements of the Company, and the Trustee makes no representation with respect to any such matters and assumes no responsibility for their correctness. The Trustee makes no representations as to the validity, adequacy or sufficiency of this Supplemental Indenture. The Trustee accepts the amendments of the Indenture effected by this Supplemental Indenture and agrees to execute the trust created by the Indenture as hereby amended, but on the terms and conditions set forth in the Indenture, including the terms and provisions defining and limiting its liabilities and responsibilities in the performance of the trust created by the Indenture as hereby amended. For the avoidance of doubt, the Trustee, by executing this Supplemental Indenture in accordance with the terms of the Indenture, does not agree to undertake additional actions nor does it consent to any transaction beyond what is expressly set forth in this Supplemental Indenture, and the Trustee reserves all rights and remedies under the Indenture.

Section 2.08 Successors and Assigns. All covenants and agreements in this Supplemental Indenture by the Company shall bind its successors and assigns. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 2.09 Severability. In case any provision in this Supplemental Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 2.10 Benefits of Supplemental Indenture. Nothing in this Supplemental Indenture, express or implied, shall give to any Person (other than the parties hereto and their successors hereunder and the Holders) any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

Section 2.11 GOVERNING LAW; WAIVER OF JURY TRIAL. THIS SUPPLEMENTAL INDENTURE AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENTAL INDENTURE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY, EACH GUARANTOR AND THE TRUSTEE IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE OR THE TRANSACTIONS CONTEMPLATED BY THIS SUPPLEMENTAL INDENTURE.

Section 2.12 Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. Receipt by telecopy or electronic mail of any executed signature page to this Supplemental Indenture shall constitute effective delivery of such signature page. Electronic signatures may be used in lieu of signatures affixed by hand, and such electronic signature shall have the same validity and effect as signatures affixed by hand.

[Signature pages follow]

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

APPLIED OPTOELECTRONICS, INC.

By: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY, N.A.

By: _____
Name:
Title:

Taxation

Under U.S. federal income tax law, a holder who exchanges Old Notes for the Consideration generally must provide such holder's correct taxpayer identification number ("**TIN**") on IRS Form W-9 (attached hereto) or otherwise establish a basis for exemption from backup withholding. A TIN is generally an individual holder's social security number or a holder's employer identification number. If the correct TIN is not provided, the holder may be subject to a $50 penalty imposed by the IRS. In addition, certain payments made to holders may be subject to U.S. backup withholding tax (currently set at 24% of the payment). If a holder is required to provide a TIN but does not have the TIN, the holder should consult its tax advisor regarding how to obtain a TIN. Certain holders are not subject to these backup withholding and reporting requirements. Non-U.S. Holders generally may establish their status as exempt recipients from backup withholding by submitting a properly completed applicable IRS Form W-8 (available from the Company or the IRS at www.irs.gov), signed, under penalties of perjury, attesting to such holder's exempt foreign status. U.S. backup withholding is not an additional tax. Rather, the U.S. federal income tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund may be obtained provided that the required information is timely furnished to the IRS. Holders are urged to consult their tax advisors regarding how to complete the appropriate forms and to determine whether they are exempt from backup withholding or other withholding taxes.

Exhibit F

Comparison of Terms

(see attached)

Exhibit 99.1

Applied Optoelectronics Announces Proposed Private Exchange Offer for 2026 Notes and Concurrent Registered Direct Offering

SUGAR LAND, Texas, December 18, 2024 — Applied Optoelectronics, Inc. (NASDAQ: AAOI) ("AOI," "we," "us" or "our") expects to enter into transactions with holders of its 5.25% Convertible Senior Notes due 2026 (the "2026 Notes") to exchange approximately $80 million principal amount of the 2026 Notes for aggregate consideration consisting of a combination of (i) Convertible Senior Notes due 2030 (the "2030 Notes"), (ii) shares of our common stock (the "Exchange Shares") and (iii) cash representing accrued interest on the 2026 Notes and the value of fractional shares, if any (such transactions, collectively, the "Exchanges").

Final terms for the Exchanges will be determined at the time of pricing. The 2030 Notes will be our senior, unsecured obligations and will be equal in right of payment with our existing and future senior, unsecured indebtedness, senior in right of payment to our existing and future indebtedness that is expressly subordinated to the 2030 Notes and effectively subordinated to our existing and future secured indebtedness, to the extent of the value of the collateral securing that indebtedness.

The 2030 Notes will be convertible at the option of holders of the 2030 Notes under certain specified circumstances, as set forth in the indenture governing the 2030 Notes. We will settle conversions by paying or delivering, as applicable, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election, based on the applicable conversion rate.

Following the completion of the Exchanges, we may engage in additional exchanges or repurchase, induce conversions of, or exercise our right to redeem the 2026 Notes. Holders of the 2026 Notes that participate in any of these exchanges, repurchases or induced conversions may purchase or sell shares of our common stock in the open market to unwind any hedge positions they may have with respect to the 2026 Notes or our common stock or to hedge their exposure in connection with these transactions. These activities may adversely affect the trading price of our common stock and the 2030 Notes we are offering.

There can be no assurance that the Exchanges will be completed. The issuance and sale of the 2030 Notes and the Exchange Shares pursuant to the Exchanges are being made in transactions exempt from registration pursuant to Sections 3(a)(9) and 4(a)(2) under the Securities Act of 1933, as amended.

Raymond James & Associates, Inc. is acting as AOI's exclusive financial advisor in connection with the Exchanges.

Concurrently with the Exchanges, AOI announced today that it intends to commence an offering of shares of its common stock in a registered direct offering (the "Registered Direct Offering").

We intend to use the net proceeds, if any, from the Registered Direct Offering for general corporate purposes, which may include, among other things, capital expenditures and working capital. We may also use such proceeds to fund acquisitions of businesses, technologies or product lines that complement our current business; however, we have no present plans, agreements or commitments with respect to any potential acquisition.

Raymond James & Associates, Inc. is acting as the sole placement agent in connection with the Registered Direct Offering. The Registered Direct Offering is being made pursuant to an automatic shelf registration statement on Form S-3ASR (Registration File No. 333-283905), which was filed with the U.S. Securities and Exchange Commission (the "SEC") on December 18, 2024, and became effective immediately upon filing, including the prospectus contained therein. A preliminary prospectus supplement and accompanying base prospectus relating to and describing the terms of the Registered Direct Offering was filed with the SEC pursuant to Rule 424(b) under the Securities Act of 1933, as amended (the "Securities Act") on December 18, 2024, copies of which may be obtained from Raymond James & Associates, Inc., Attention: Equity Syndicate, 880 Carillon Parkway, St. Petersburg, Florida 33716, or by telephone at (800) 248-8863, or by e-mail to prospectus@raymondjames.com. Electronic copies of the preliminary prospectus supplement and accompanying prospectus are also available on the website of the SEC at http://www.sec.gov.

The Exchanges and Registered Direct Offering are expected to close concurrently on or about December 23, 2024, subject to customary closing conditions.

Haynes Boone LLP is acting as legal advisor to AOI and Mayer Brown LLP is acting as legal advisor to Raymond James & Associates, Inc., in connection with the Exchanges and the Registered Direct Offering.

This press release is for informational purposes only and does not constitute an offer to sell or the solicitation of an offer to buy any securities, nor will there be any sale of any securities in any jurisdiction in which such offer, solicitation or sale would be unlawful.

Forward-Looking Information

This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. In some cases, you can identify forward-looking statements by terminology such as "believe," "may," "estimate," "continue," "anticipate," "intend," "should," "could," "would," "target," "seek," "aim," "predicts," "think," "objectives," "optimistic," "new," "goal," "strategy," "potential," "is likely," "will," "expect," "plan" "project," "permit" or by other similar expressions that convey uncertainty of future events or outcomes. Such forward-looking statements reflect the views of management at the time such statements are made. These forward-looking statements involve risks and uncertainties, as well as assumptions and current expectations, which could cause our actual results to differ materially from those anticipated in such forward-looking statements. These risks and uncertainties include but are not limited to: reduction in the size or quantity of customer orders; change in demand for our products due to industry conditions; changes in manufacturing operations; volatility in manufacturing costs; delays in shipments of products; disruptions in the supply chain; change in the rate of design wins or the rate of customer acceptance of new products; our reliance on a small number of customers for a substantial portion of its revenues; potential pricing pressure; a decline in demand for our customers' products or their rate of deployment of their products; general conditions in the internet datacenter, cable television (CATV) broadband, telecom, or fiber-to-the-home (FTTH) markets; changes in the world economy (particularly in the United States and China); changes in the regulation and taxation of international trade, including the imposition of tariffs; changes in currency exchange rates; the negative effects of seasonality; the impact of any pandemics or similar events on our business and financial results; and other risks and uncertainties described more fully in our documents filed with or furnished to the SEC, including our Annual Report on Form 10-K for the year ended December 31, 2023 and our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2024, June 30, 2024 and September 30, 2024. More information about these and other risks that may impact our business are set forth in the "Risk Factors" section of our quarterly and annual reports on file with the SEC. You should not rely on forward-looking statements as predictions of future events. All forward-looking statements in this press release are based upon information available to us as of the date hereof, and qualified in their entirety by this cautionary statement. Except as required by law, we assume no obligation to update forward-looking statements for any reason after the date of this press release to conform these statements to actual results or to changes in our expectations.

About Applied Optoelectronics

Applied Optoelectronics Inc. (AOI) is a leading developer and manufacturer of advanced optical products, including components, modules and equipment. AOI's products are the building blocks for broadband fiber access networks around the world, where they are used in the CATV broadband, internet datacenter, telecom and FTTH markets. AOI supplies optical networking lasers, components and equipment to tier-1 customers in all four of these markets. In addition to its corporate headquarters, wafer fab and advanced engineering and production facilities in Sugar Land, TX, AOI has engineering and manufacturing facilities in Taipei, Taiwan and Ningbo, China.

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Exhibit 99.2

Applied Optoelectronics Announces Entry into Exchange Transactions for 2026 Notes and Pricing of a Concurrent Registered Direct Offering

SUGAR LAND, Texas, December 19, 2024— Applied Optoelectronics, Inc. (NASDAQ: AAOI) ("AOI," "we," "us" or "our") announced today that it has entered into transactions with holders (the "Noteholders") of its 5.25% Convertible Senior Notes due 2026 (the "2026 Notes") to exchange approximately $76.7 million principal amount of the 2026 Notes for (i) approximately $125 million aggregate principal amount of 2.75% Convertible Senior Notes due 2030 (the "2030 Notes"), (ii) approximately 1,487,874 shares of our common stock (the "Exchange Shares") and (iii) approximately $89.6 thousand in cash representing accrued interest on the 2026 Notes and the value of fractional shares (such transactions, collectively, the "Exchanges").

The 2030 Notes will be our senior, unsecured obligations and will be equal in right of payment with our existing and future senior, unsecured indebtedness, senior in right of payment to our existing and future indebtedness that is expressly subordinated to the 2030 Notes and effectively subordinated to our existing and future secured indebtedness, to the extent of the value of the collateral securing that indebtedness. The 2030 Notes will bear interest at a rate of 2.75% per year, payable semiannually in arrears on January 15 and July 15 of each year, beginning on July 15, 2025. The 2030 Notes will mature on January 15, 2030, unless earlier repurchased, redeemed or converted.

The 2030 Notes will be convertible at the option of holders of the 2030 Notes under certain specified circumstances, as set forth in the indenture governing the 2030 Notes. We will settle conversions by paying or delivering, as applicable, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election, based on the applicable conversion rate.

The initial conversion rate will be approximately 23.0884 shares of our common stock per $1,000 principal amount of 2030 Notes, representing an initial conversion price of approximately $43.31 per share of our common stock, an approximately 27.50% premium to the closing price of our common stock on December 18, 2024. If a Make-Whole Fundamental Change (as defined in the indenture governing the 2030 Notes) occurs, and in connection with certain other conversions, we will in certain circumstances increase the conversion rate for a specified period of time.

Except in connection with the completion of the Specified Divestiture (as described below), we may not redeem the 2030 Notes prior to January 15, 2027. On or after January 15, 2027, and on or before the 40th scheduled trading day immediately before the maturity date, we may redeem all or part of the 2030 Notes for cash if the last reported sale price per share of our common stock exceeds 130% of the conversion price on (i) each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date we send the related redemption notice; and (ii) the trading day immediately before the date we send such redemption notice, at a cash redemption price equal to the principal amount of the 2030 Notes to be redeemed, plus accrued and unpaid interest, if any. Holders may require us to repurchase their 2030 Notes upon the occurrence of a Fundamental Change (as defined in the indenture governing the 2030 Notes) at a cash purchase price equal to the principal amount thereof plus accrued and unpaid interest, if any. In addition, the 2030 Notes will be redeemable, in whole or in part, at our option at any time, and from time to time, on or before the 40th scheduled trading day immediately before the maturity date, at a cash redemption price equal to the principal amount of the 2030 Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date, if the "Specified Divestiture" (as defined in the indenture governing the 2030 Notes) is completed. If the Specified Divestiture is completed, each Noteholder will have the right to require us to repurchase its 2030 Notes for cash at a repurchase price equal to 100% of the principal amount of such 2030 Notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the repurchase date.

The issuance of the 2030 Notes, the Exchange Shares and the shares of our common stock issuable upon conversion of the 2030 Notes have not been registered under the Securities Act, and the 2030 Notes, the Exchange Shares and such shares issuable upon conversion of the 2030 Notes may not be offered or sold without registration or an applicable exemption from the registration requirements of the Securities Act and applicable state or other jurisdictions' securities laws, or in transactions not subject to those registration requirements.

Raymond James & Associates, Inc. acted as AOI's exclusive financial advisor in connection with the Exchanges.

Concurrently with the Exchanges, AOI announced today that it has priced an issuance of an aggregate of 1,036,458 shares of common stock, at a purchase price of $33.97 per share, in a registered direct offering (the "Registered Direct Offering").

We intend to use the net proceeds from the Registered Direct Offering for general corporate purposes, which may include, among other things, capital expenditures and working capital. We may also use such proceeds to fund acquisitions of businesses, technologies or product lines that complement our current business; however, we have no present plans, agreements or commitments with respect to any potential acquisition.

Raymond James & Associates, Inc. acted as the sole placement agent in connection with the Registered Direct Offering. The Registered Direct Offering was made pursuant to an automatic shelf registration statement on Form S-3ASR (Registration File No. 333-283905), which was filed with the U.S. Securities and Exchange Commission (the "SEC") on December 18, 2024, and became effective immediately upon filing, including the prospectus contained therein, as supplemented by the prospectus supplement filed with the SEC pursuant to Rule 424(b) under the Securities Act of 1933, as amended, on December 18, 2024. The prospectus supplement and accompanying prospectus relating to the Registered Direct Offering will be available on the SEC's website at www.sec.gov.

The Exchanges and Registered Direct Offering are expected to close concurrently on or about December 23, 2024, subject to customary closing conditions.

Haynes Boone LLP is acting as legal advisor to AOI and Mayer Brown LLP is acting as legal advisor to Raymond James & Associates, Inc., in connection with the Exchanges and the Registered Direct Offering.

This press release is for informational purposes only and does not constitute an offer to sell or the solicitation of an offer to buy any securities, nor will there be any sale of any securities in any jurisdiction in which such offer, solicitation or sale would be unlawful.

Forward-Looking Information

This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. In some cases, you can identify forward-looking statements by terminology such as "believe," "may," "estimate," "continue," "anticipate," "intend," "should," "could," "would," "target," "seek," "aim," "predicts," "think," "objectives," "optimistic," "new," "goal," "strategy," "potential," "is likely," "will," "expect," "plan" "project," "permit" or by other similar expressions that convey uncertainty of future events or outcomes. Such forward-looking statements reflect the views of management at the time such statements are made. These forward-looking statements involve risks and uncertainties, as well as assumptions and current expectations, which could cause our actual results to differ materially from those anticipated in such forward-looking statements. These risks and uncertainties include but are not limited to: reduction in the size or quantity of customer orders; change in demand for our products due to industry conditions; changes in manufacturing operations; volatility in manufacturing costs; delays in shipments of products; disruptions in the supply chain; change in the rate of design wins or the rate of customer acceptance of new products; our reliance on a small number of customers for a substantial portion of its revenues; potential pricing pressure; a decline in demand for our customers' products or their rate of deployment of their products; general conditions in the internet datacenter, cable television (CATV) broadband, telecom, or fiber-to-the-home (FTTH) markets; changes in the world economy (particularly in the United States and China); changes in the regulation and taxation of international trade, including the imposition of tariffs; changes in currency exchange rates; the negative effects of seasonality; the impact of any pandemics or similar events on our business and financial results; and other risks and uncertainties described more fully in our documents filed with or furnished to the SEC, including our Annual Report on Form 10-K for the year ended December 31, 2023 and our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2024, June 30, 2024 and September 30, 2024. More information about these and other risks that may impact our business are set forth in the "Risk Factors" section of our quarterly and annual reports on file with the SEC. You should not rely on forward-looking statements as predictions of future events. All forward-looking statements in this press release are based upon information available to us as of the date hereof, and qualified in their entirety by this cautionary statement. Except as required by law, we assume no obligation to update forward-looking statements for any reason after the date of this press release to conform these statements to actual results or to changes in our expectations.

About Applied Optoelectronics

Applied Optoelectronics Inc. (AOI) is a leading developer and manufacturer of advanced optical products, including components, modules and equipment. AOI's products are the building blocks for broadband fiber access networks around the world, where they are used in the CATV broadband, internet datacenter, telecom and FTTH markets. AOI supplies optical networking lasers, components and equipment to tier-1 customers in all four of these markets. In addition to its corporate headquarters, wafer fab and advanced engineering and production facilities in Sugar Land, TX, AOI has engineering and manufacturing facilities in Taipei, Taiwan and Ningbo, China.

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