U.S. Department of Justice

Civil Division

Washington, DC 20530

October 30, 2026

VIA CM/ECF

The Honorable Craig T. Goldblatt
United States Bankruptcy Court for the District of Delaware
824 North Market Street
Wilmington, Delaware 19801

Re: *Noble Supply & Logistics, LLC v. Defense Logistics Agency*, Adv. No. 26-50885 (CTG)

Dear Judge Goldblatt:

This letter responds to the questions the Court raised at the October 28 hearing about whether DLA owes Noble any undisputed, matured, and payable debts for the Lines discussed below, relying only on the summary judgment record. Hr'g Tr. 158:8–12, 160:17–161:7, 162:3–14 (Oct. 28, 2026) ("Tr.") (cited pages attached as Exhibit A). The short answer is no. As the movant with the burden of proof, Noble must show that no reasonable factfinder could find for DLA on any element of Noble's claims. *In re Bressman*, 327 F.3d 229, 238 (3d Cir. 2003). The record establishes that Noble's "right to payment under the Contracts is conditioned upon delivery to the agreed upon destination and acceptance by the Government." Debtors' Reply ¶ 22 (Adv. D.I. 35). Here, Noble has not shown that acceptance under the Contracts occurred.

The FAR defines acceptance as "the act of an authorized representative of the Government by which the Government . . . assumes ownership of existing identified supplies tendered." FAR 46.101. Each invoice payment requires a "receiving report or other Government documentation authorizing payment" that shows when "the designated Government official . . . [a]ccepted the supplies" and bears that official's signature. FAR 32.905(c). This record is the goods receipt, and Noble is not entitled to payment until that goods receipt is posted and Noble invoices DLA. Cuorato Decl. ¶¶ 4–5 (Adv. D.I. 19-2); *see* Defense Logistics Acquisition Directive 32.905(c)(S-90)(1)(ii)(B)(1) (acceptance results in "the posting of a goods receipt"). The record contains no evidence that DLA accepted delivery of the goods or services discussed below (the "Lines," numbered as in Cuorato Decl. Sched. 1).

Docket #0042 Date Filed: 10/30/2026

1. Alleged Proof DLA Received by August 27: Lines 10, 18–22, 55, 59, 65–67, 70–75, and 90

Noble bears the burden of proving that its proof of delivery complies with the Contract terms and applicable law. The Court asked where the record shows why DLA found Noble's proof received by August 27 insufficient. Tr. 142:17–143:9. DLA found the proof insufficient for all 18 Lines in this group ($1,160,790.28). Cuorato Decl. ¶ 14 & Sched. 1. DLA posted no goods receipt for any of the 18, *id.* ¶ 13, and there is no evidence in the record that DLA accepted these Lines.

For Line 10 ($16,384), Noble was notified on July 28 that DLA could not "post the goods receipt (GR), because the POD doesn't show the delivery location." Adv. D.I. 19-3 at 11. Noble's next email in the record, on September 16, after the termination, sent a "newly attached receiving report." *Id.* at 10. Because the Government is not liable after a termination for cause for supplies it has not accepted, FAR 52.212-4(m) (Adv. D.I. 5-1 at 13), Noble must show that it supplied the

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necessary proof before August 27. *See* Tr. 164:18–22. There is no evidence in the record of such proof.

For nine other Lines (Lines 55, 59, 67, and 70–75; $525,494.66), Noble's alleged proof is a carrier's record. Cuorato Decl. Sched. 1. DLA's declarant states that for most Lines whose proof DLA found insufficient, "nothing in the proof shows that the customer received the goods." *Id.* ¶ 9. Noble calls such lack of proper documentation immaterial because its right to payment depends on "delivery to the agreed upon destination and acceptance by the Government, not receipt by the end customer." Reply ¶ 22. But under the Contracts, the destination is the place of inspection and acceptance. Adv. D.I. 5-1 at 60, 102. Noble and its carriers, not DLA, hold the records that show where each shipment was received and who signed for delivery. Cuorato Decl. ¶ 22. Noble has not filed those records or other proof of receipt and acceptance. Further, there is no evidence in the record that any customer received, inspected, or used any of these goods. Without such evidence, Noble has not met its burden to show delivery to the appropriate destination or acceptance.

For Lines 65 and 66 ($611,545.87), the receiving report Noble relies on is not in the record. Nothing in the record identifies who signed the report, that person's position, or any authority to accept goods on behalf of the Government. The phrase "representative of the Government" comes from Noble's declarant, who says that for each delivery "either a representative of the Government signed a receiving report for such goods or Noble obtained proof of delivery from a shipper or freight forwarder," without identifying which "proof" applies to which Line. Albergotti Decl. ¶ 17 (Adv. D.I. 5). DLA's declarant used the same phrase only to sort the proof in Noble's own terms. Cuorato Decl. ¶ 10 & Sched. 1. That is not an admission that a Government representative signed this report. Only "the designated Government official" can record acceptance. FAR 32.905(c)(5)–(6). Noble bears the burden to show that this report was signed by that official, and there is no evidence in the record that the Government received and properly signed it.

Lines 18–22 ($4,857.75) are on a fast payment order, so Noble may invoice them without a goods receipt, but there is no evidence in the record that it has done so. Cuorato Decl. ¶¶ 5, 14 & Sched. 1. For Line 90 ($2,508), DLA received Noble's "proof" on August 12, but Noble's evidence shows delivery on August 27. *Id.* ¶ 15(a) & Sched. 1. Proof of delivery cannot be sent before a delivery.

2. Alleged Proof DLA Received After August 27: Lines 11–17, 26, 32–50, 52–53, 57–58, 69, 76–85, 87–89, and 91–107

A. No Payments Are Mature or Payable Without a Goods Receipt

The Court asked whether, for goods delivered before August 27 whose alleged proof arrived later, the goods receipt is a ministerial act that DLA is legally obligated to perform, so that the debt has matured. Tr. 149:15–150:6, 158:1–5. It is not. Posting the goods receipt is a legal requirement for payment. If it were a ministerial act, any contractor could claim delivery and demand payment before the Government decided whether the goods arrived and conform.

Under the Contracts, Noble "shall only tender for acceptance those items that conform to the requirements of this contract," and the Government "reserves the right to inspect or test any supplies or services that have been tendered for acceptance." FAR 52.212-4(a) (Adv. D.I. 5-1 at 10). Deciding whether a delivery conforms to the Contracts is reserved to the Government. The goods receipt is, therefore, not a ministerial act but an official record of DLA's acceptance, and it is required by law before any contractor is entitled to payment. FAR 32.905(c); Cuorato Decl. ¶ 4; *see Sperry Corp. v. United States*, 845 F.2d 965, 969–70 (Fed. Cir. 1988) (no acceptance until the Government executed its receiving report).

DLA has posted no goods receipt for any of these Lines. Cuorato Decl. ¶¶ 6, 11, 13–14. There is also no evidence in the record that DLA accepted these Lines, and DLA found Noble's alleged proof insufficient for 49 Lines ($10,738,432.33). Of those 49 Lines, 43 show inadequate carrier records like those in Part 1. *Id.* Sched. 1. Whether Noble delivered the goods described in those 49 Lines as the Contracts require is a genuine issue of material fact that bears on DLA's

liability. Under Noble's own cited authority, that is a bona fide dispute. *In re IPC Int'l Corp.*, No. 13-12050, 2014 WL 5544692, at *3 (Bankr. D. Del. Nov. 3, 2014) (quoted at Adv. D.I. 4 ¶ 42).

B. Acceptance Under the Contracts Requires an Affirmative Act by the Government

The Court asked for authority that acceptance is an affirmative act. Tr. 151:19–20, 152:9–14. The Federal Circuit held that acceptance did not occur until the Government executed its inspection and receiving report, a DD Form 250, consistent with the parties' view "that acceptance would require some affirmative action by the government." *Sperry*, 845 F.2d at 969–70. It does not matter whether the Government has received the goods or services. The same court found no acceptance where the Government possessed the work, because "only the contracting officer could finally accept the work" and there was "nothing in the record that even suggests, much less establishes, that the contracting officer did so." *M.C. & D. Capital Corp. v. United States*, 948 F.2d 1251, 1255–56 (Fed. Cir. 1991). Nothing in the record here suggests that DLA accepted any of these Lines either: Noble's production has no DD Form 250 for any Line. Cuorato Decl. ¶ 18. A debt payable "only upon the occurrence of a certain act or event" is not matured. *In re MF Glob., Inc.*, 531 B.R. 424, 438 (Bankr. S.D.N.Y. 2015) (quoted at Adv. D.I. 4 ¶ 44). Here, acceptance is that required act, as Noble agrees, *see* Debtors' Reply ¶ 22. But there is no evidence in the record of DLA's acceptance, so these debts are not matured.

The Prompt Payment Act, which the Contracts adopt, leads to the same result. Adv. D.I. 5-1 at 8, 11. Payment is due 30 days after the later of a proper invoice and Government acceptance. FAR 32.904(b)(1)(i)–(ii). There is no evidence in the record that DLA accepted the goods described in these Lines, and Noble admits it has not invoiced DLA. Albergotti Decl. ¶ 17; Tr. 92:19–20. So the 30-day period the Court described has not begun. Tr. 107:7–108:14.

C. Termination of the Orders Precludes Maturity of Any Debt

The terminations are a separate barrier to maturity. After a termination for cause, "the Government shall not be liable to the Contractor for any amount for supplies or services not accepted." FAR 52.212-4(m) (Adv. D.I. 5-1 at 13). Therefore, a contractor cannot recover for work the Government did not accept before the termination, "[r]egardless of whether [it] completed the work." *Taino Constr. Grp., LLC v. United States*, 177 Fed. Cl. 730, 745 (2025).

DLA had accepted none of the Lines in this group when it terminated the orders on August 27, and a terminated order line "is no longer under contract." Cuorato Decl. ¶¶ 6, 13. Of the 62 Lines in this group, 13 have proof that DLA marked as acceptable ($1,117,501.57). However, DLA first received that proof after the terminations, although Noble claims it delivered five of the 13 on July 27. *Id.* ¶ 11 & Sched. 1. So, these 13 Lines fall outside the principle the Court applied: "deliveries before the 27th, proof received before the 27th," and acceptable proof. Tr. 164:18–22. Nothing in the Contracts requires DLA to accept supplies on a terminated order line, so acceptance after August 27 or the posting of a goods receipt is not a ministerial act. The Court read the termination notices to imply that earlier deliveries would still be "considered for Goods Receipt posting," which is review, not acceptance. Tr. 154:14–155:13; Adv. D.I. 5-1 at 187. Noble offers no evidence, nor is there any evidence in the record, that DLA accepted any of these Lines after August 27.

D. Noble's Reliance on FAR 46.407(g) for Implied Acceptance Is Misplaced

Noble relies on FAR 46.407(g) for implied acceptance. Adv. D.I. 4 ¶ 39; Reply ¶ 17; Tr. 139:11–17. Neither Contract incorporates section 46.407(g) or refers to it. *See* Adv. D.I. 5-1 at 2–62, 64–105. The Contracts set no deadline to reject. *See* FAR 52.212-4(a). With no deadline to reject and no payment until acceptance, a contractor has every reason to send its proof and press for acceptance. For all but two of these Lines, Noble did not take that first step: neither DLA's records nor Noble's production shows that Noble sent any proof by August 27. Cuorato Decl. ¶ 11.

Possession is also not acceptance. The Court asked why delivery without a rejection should not be treated as acceptance. Tr. 151:6–14. The Contracts answer that question: title passes to the Government "upon acceptance, regardless of when or where the Government takes physical possession." FAR 52.212-4(n) (Adv. D.I. 5-1 at 13). Courts have "repeatedly found that government possession and use is not akin to acceptance," even where the Government used a building before accepting it. *PCL Constr. Servs., Inc. v. United States*, 47 Fed. Cl. 745, 809 (2000). Until DLA accepts, the goods belong to Noble, wherever they are, and Noble may retrieve them. *See* Tr. 153:5–12. Noble's declarant states only that the Government "retained possession" and nothing about acceptance or use. Albergotti Decl. ¶ 17. Noble's own authority requires more: implied acceptance "arises from a Government act inconsistent with the contractor's ownership of such items." Debtors' Reply ¶ 17 n.26 (quoting *Ateron Corp.*, ASBCA No. 46867, 96-1 BCA ¶ 28,165). Holding goods that the Contracts say still belong to Noble is not such an act. Noble must show, for each Line, that the Government used the goods or otherwise treated them as its own, and Noble offers no evidence, nor is there any evidence in the record, that DLA did so.

The lack of acceptance is a barrier to maturity. "[P]ayment shall be made for items accepted by the Government," FAR 52.212-4(i)(1) (Adv. D.I. 5-1 at 11), and there is no evidence in the record that DLA accepted these Lines. Noble's argument that DLA should have accepted them is a claim that DLA breached the Contracts. As the Court put it, "if there's a barrier to maturity, that is a contract violation. Then we've got a contract dispute, not a turnover action." Tr. 95:21–23.

3. Incorrect Delivery Locations Bar Acceptance: Lines 79, 82–84, and 91–93

The record contains no evidence that DLA agreed to change the destinations for these Lines. Noble delivered the goods and services in seven Lines ($6,042,307.93) to Fort Bragg, North Carolina (Lines 82 through 84 and 91 through 93), and Camp Pendleton, California (Line 79, which was ordered for Hanahan, South Carolina). DLA approved no modification changing the delivery destinations to Fort Bragg or Camp Pendleton. Cuorato Decl. ¶ 12. A change of destination requires the "written agreement of the parties." FAR 52.212-4(c) (Adv. D.I. 5-1 at 10). The Court placed on Noble the burden to show that agreement in the record. Tr. 143:19–144:5, 161:16–162:2. Noble's counsel acknowledged that the reason for these differing destinations "is not expressly in the record." Tr. 117:18–22.

Specifically, for Lines 82 and 91 through 93 ($4,478,211.06), DLA agreed in July that Noble could ship to Fort Irwin, California, not Fort Bragg. Adv. D.I. 19-4 at 7–8, 10, 22. On August 17, when Noble's supplier asked whether it could ship them to Fort Bragg, Noble's buyer answered, "No, not yet. I'm confirming with the contracts team." *Id.* at 32–33. The buyer then asked an Army support contractor, not DLA, to confirm that the items were "approved to ship to 82ND ABN at Ft. Bragg." *Id.* at 32. That contractor's signature block states that its correspondence "in no way binds or obligates the Government contractually." *Id.* Noble waited until October 14, after it filed this proceeding, to ask DLA to approve the Fort Bragg destination. Cuorato Decl. ¶ 12. There is no evidence in the record that DLA agreed that Noble could send deliveries to Fort Bragg.

Lines 83 and 84 ($1,219,321.69) are for services. Noble asked to change their destination on August 17, and DLA did not approve the change. Cuorato Decl. ¶ 12. For these Lines and Line 82 (also a service), Noble relies on an Army program office email sent after the termination, "confirming receipt for the below that supported the 82nd event at Ft Bragg." Adv. D.I. 19-4 at 27. A customer's confirmation of receipt is not DLA's written agreement to a new destination, and there is no evidence in the record that DLA ever approved a change in destination for these Lines.

4. Conclusion

Under the law and the terms of the Contracts, acceptance has not occurred for any of these Lines, for whatever reason. Without acceptance, there is no matured debt payable upon demand. Noble has not met its legal and evidentiary burdens for summary judgment, which rests on Mr. Albergotti's declarations. What is described above and at the October 28 hearing, in addition to being a dispute over material facts, is not turnover but a breach of contract claim governed by the Contract Disputes Act. Accordingly, the United States respectfully requests that the Court deny Noble's motion for summary judgment as to these Lines.

Respectfully submitted,

Ryan W. Lamb
Trial Attorney

cc: All counsel of record (via CM/ECF)

EXHIBIT A

Excerpts of Transcript of Hearing Held October 28, 2026

Noble Supply & Logistics, LLC v. Defense Logistics Agency,
Adv. No. 26-50885 (CTG)

Pages 1, 92, 95, 107–08, 117, 139, 142–44, 149–55, 158, 160–62, 164, and 167

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	.	Chapter 11
	.	Case No. 26-11369 (CTG)
NOBLE SUPPLY & LOGISTICS, LLC, *et al.*,	.	(Jointly Administered)
Debtors.	.	
	.	
NOBLE SUPPLY & LOGISTICS, LLC,	.	Adversary Proceeding No. 26-50885 (CTG)
Plaintiff,	.	
v.	.	
DEFENSE LOGISTICS AGENCY,	.	Courtroom No. 7
	.	824 Market Street
Debtors.	.	Wilmington, Delaware 19801
	.	Wednesday, October 28, 2026
	.	10:00 a.m.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE

Audio Operator: Alyce Doody, ECRO

Transcription Company: Reliable
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Proceedings recorded by electronic sound recording, transcript produced by transcription service.

Honor. The debtors are conflating delivery with acceptance, which is a requirement under the FAR.

THE COURT: So now someone's got to show me the FAR. Where -- and that's in this record somewhere?

MR. LAMB: Yes, Your Honor.

So under the contracts, Your Honor, just to be clear, the party delivers the goods to wherever they're supposed to be delivered. Party -- Noble or the shipper provides a proof of delivery through the system where DLA and Noble communicate. The proof of delivery, then, triggers a review of the goods that were delivered to make sure they conform to the contract. If they do, DLA, then, provides a goods receipt in that system.

Upon the goods receipt being entered into the system, that allows Noble to provide an invoice in the system, which then triggers the payment obligation. It's the filing of the notice that makes the debt mature.

THE COURT: Okay. And what's your response?

MR. DEAN: The problem with that is that we can't issue the invoice until they acknowledge the receipt. And when they sent this termination notice, instead of doing it in the five to seven days they normally do, they just stopped. They stopped on everything, despite the fact that the text of the termination order that you were just hearing about. I would direct Your Honor to that at Exhibit D(1),

THE COURT: Right.

MR. DEAN: -- after. It doesn't say that they cannot post and confirm delivery of stuff after the termination notice that was delivered previously. But that's what they've done here and that's why we have a problem.

THE COURT: I understand that, but Mr. Dean, the -- I think the argument that the Government is making is, I understand that, and we may have breached our contract in that regard, but that's a claim for breach of contract, not a claim for a debt that is matured within the meaning of 542(b) and so that's an argument that you can take to the Court of Claims.

MR. DEAN: I -- if you took that interpretation, Your Honor, you would never be able to hold that a contract claim could fall within the scope of 542. If you allow the counterparty to the contract --

THE COURT: They usually don't. They usually don't. They do only when it's really obvious and when -- then it's matured.

MR. DEAN: Well --

THE COURT: And if there's a barrier to maturity, that is a contract violation. Then we've got a contract dispute, not a turnover action.

MR. DEAN: But, Your Honor, our argument is that they normally did this in five to seven days. They stopped,

at all. So they've just gone radio silent.

And all that happened, with a couple of minor exceptions, more than 30 days ago. So had they done what they were supposed to do more than 30 days ago when they acknowledged they first received the proof of delivery, we would have been paid by now.

THE COURT: And the obligation to act within 30 days comes from where?

MR. DEAN: The contracts.

THE COURT: Okay.

MR. DEAN: Well, the invoices would be due and payable in 30 days, generally speaking, unless there's a fast-paying component of it that allows us to invoice before the goods receipt is posted.

THE COURT: So if they've got a problem, they should tell you that within the 30 days?

MR. DEAN: If they have a problem, they normally tell us within five -- they tell us immediately.

THE COURT: I'm trying to separate. I mean, there may be things that they do in the ordinary course of business that they're not legally required to do and so what I'm trying to figure out, right, just as I'm thinking about this, is if they decide to slow-pay you within their rights, like, you know it could be that they're required to pay within 30 days; they would typically pay you in 7. If they decide

we're mad for any reason or no reason and we're now going to take the full 30 days, that doesn't violate the contract, right?

MR. DEAN: I think that we're mixing up two issues.

THE COURT: No, I understand, but I guess what I'm trying to understand is it seems to me that the contract, by its terms, is basically a 30-day pay following X, Y, and Z. And you deliver whatever you're supposed to deliver, if they were required to pay that within 30 days, I think it's reasonably implicit that if there's something wrong with what you've given them, they've got to tell you what that is within the period they would otherwise be required to pay you.

MR. DEAN: Right. And that's correct and they always do it much earlier than that. And they have a policy that says that this is what they're supposed to do.

THE COURT: Okay.

MR. DEAN: And we cited that in the pleadings, okay.

But I agree with that proposition, as well, but either way, it would result in we would be paid by now, had they done what they were supposed to do.

So let me do that this time in the context of walking you through the record.

just make a correction in the paperwork and say, oh, well, the -- in this case the military officer and the Army directed the manufacturer to send it directly to Fort Bragg instead of somewhere else, let's just make the change.

But because they completely failed to engage with us when we submit the addresses that show the actual delivery that are different then what is in the contract they just say, oh, well, its defective because the address is different then what is in the contract.

THE COURT: Does -- where does Mr. Albergotti's declaration tell me what you just did explaining that this is the story?

MR. DEAN: That -- the story about the army officer that I just told you that is just me trying to give you some background as to how this came up.

THE COURT: And I appreciate that but --

MR. DEAN: It's not in the record.

THE COURT: -- even the broader point that says, listen, to the extent there is a discrepancy between the address where it was delivered and what the contract says, the reason for that is such and such.

MR. DEAN: That is not expressly in the record. So, what I will say to that is that is just more background for me to explain to you.

THE COURT: No, I understand. You understand why

delivered. We tried to respond and explain, they didn't buy the explanation. There were things that were delivered in the interim but what we're talking about here are only things that were delivered before the date of termination notice.

THE COURT: If they ordered it and you were required to deliver it by day one and, in fact, deliver it on day two what happens then?

MR. DEAN: They can accept it or not.

THE COURT: And is there a mechanism for not accepting delivery.

MR. DEAN: Yes. And, in fact, the provision of the FAR that Mr. Lamb didn't tell you about is 46-407, which I have on my screen right now, (g), and that actually provides that the Government has to timely provide a notice of rejection of delivery of goods within a reasonable period of time where they will be deemed to have constructively accepted them as a matter of law.

THE COURT: And Mr. Albergotti's declaration says that they received no such notice.

MR. DEAN: We received no such notice.

THE COURT: Mr. Lamb, can I -- I just want to try to simplify this from my little brain. Let's start with line 1 of the chart. Line 1 says that proof of delivery was received on January 22nd, 2026 and that proof was acceptable.

MR. LAMB: I'm sorry, Your Honor, can you hold on

do the math and get it right but where there is delivery that occurred before the termination and the proof was acceptable, in the absence of some other issue, and we will talk about whatever the other issues are, it seems to me that those are subject to -- those debts are subject to turnover because they're not disputed debts. They're matured, they fit within the language of 542(b).

MR. LAMB: Your Honor, where the proof of delivery was acceptable before the 27th?

THE COURT: Where the proof of delivery arrived before the 27th and turned out to be acceptable.

MR. LAMB: Understood.

THE COURT: And, look, I don't want to be creating more work for the parties but I don't know that I've got an alternative. Here is -- let's just go through the issues and we can talk more about this one by one.

So, Paragraph 10 says that for a number of reports DLA found the proof insufficient for 71 of them. I don't think a conclusory statement that proof is insufficient makes it a real dispute. If there is something in this record. As to any line where you can show me something in the record that identifies the reason why the proof was unacceptable and that is an objectively reasonable basis to challenge it then we've got a dispute and I'm not going to resolve such a dispute. That is going to go to the Court of claims.

But you have got to show me something that is non-conclusory that -- again, I'm just applying ordinary principles. Something non-conclusory, genuine factual dispute that this is actually not sufficient because and it's got to be something in the existing summary judgment record. So, to the extent that you can show me what those are, then I've got a genuine dispute, and I don't get to resolve those. They're not subject to turnover but in the absence of it the mere conclusory statement is insufficient.

So far, are we on the same page?

MR. LAMB: I understand where you're coming from.

THE COURT: Okay, that's fine. You don't have to agree but I want to, at least, give you something actionable.

I want to come back to the question of receipt of proof after August 27th because I want to give you both the chance to be heard a little bit further on that because I'm not sure I understand enough to have a clear answer in my head on that question.

I will say this, where the Government hasn't -- takes the position that the goods were delivered to the wrong place there I'm going to shift the burden the other way and the debtor is going to have to show me where in the record it shows that that was okay. In the absence of that, then we've got a factual dispute that isn't subject to turnover.

So, if there is a real dispute about whether that

was the right location to send it then we've got a contract dispute not resolvable on turnover and only if the record is really clear that the Government said, no, send it to location B instead. If they can show me that then that is a different thing.

I think we would agree that Paragraph 13 there is nothing for me to decide -- or Paragraph 14.

With respect to this question of if there is an agreement that delivery occurred and -- look, we're only talking here about things that were delivered before the termination date. If there is a delivery after the agreed delivery date but before the termination date, which is what I think Paragraph 15 is talking about, there I think applying the principles that were described there's an obligation to pay unless you can show rejection so that -- as I understand the principle if its ordered for the 1st and it comes on the 2nd that gives the recipient the right to say, no, I don't want this anymore but if you keep the thing then you need to pay for it. I think that it was the language from the FAR that you were reading to me says.

MR. LAMB: And to add onto that, Your Honor, the August 27th letter specifically states that it will not accept any deliveries after the 27th.

THE COURT: Exactly. I don't think the debtor is asking to be paid for any deliveries after the 27th. So, if

proof of receipt.

THE COURT: We will come back to that question. That is the question I intentionally left open.

MR. LAMB: So, the issue that -- and that is exactly where I was going. So, the issue that we really will probably be focusing on in the next couple of days when we do the meet and confer, if we do it now even, is what about the deliveries where the proof of delivery wasn't provided prior to the 27th.

THE COURT: So, that is a legal question that I think I need to decide. So, I'm not making you agree about that. I am only making you agree where the question is what does this record show me.

MR. LAMB: Understood.

THE COURT: To the extent there are legal questions that is my job. As much as I sometimes would prefer not to have to do it, that is the job for which I signed up. So, on that question there is a category, and it's sizeable category, of deliveries that occurred before the 27th where the proof of delivery arrived afterwards. And the question is, is that a mature debt because there is just a ministerial act that the Government has to do and hasn't done or is the Government not obligated to do that for those deliveries and, therefore, it's not a ministerial act and, therefore, the debt is not matured.

I don't know the answer to that question, and I want to hear from both of you on that issue if you walk me through whatever -- and I don't want to be an expert in the way the FAR works. There is a good reason why Congress created the Court of Federal Claims but I feel like here I am and I think that that is kind of what I have to figure out.

So, let me give you both the chance to be heard.

MR. LAMB: Certainly, Your Honor. So, as to the FAR on that point, and that goes to Subparagraph (m) that I identified earlier. It states that the Government shall not be liable to any contractor -- or to the contractor for any amount for supplies or services not accepted and that -- the moment that occurred in this instance was August 27th.

THE COURT: Hold on one second, let me pull up that FAR language for a second.

(Pause)

THE COURT: The Government may terminate this contract or any part here of for cause in the event of default by the contract or if the contractor fails to comply with the contract terms and conditions or fails to provide the Government with adequate assurance of future performance.

MR. LAMB: That was all the actions that DLA took prior to the termination.

THE COURT: All good. In the event of termination for cause, the Government shall not be liable to the

contractor for any amounts, for supplies or services not accepted and the contractor shall be liable to the Government for any rights and remedies provided by law.

So, let me tell you, if it is determined that the Government improperly terminated the contract for default -- okay, and no one is saying that applies here. So, I've got a pure legal question of what does it mean to say for supplies or services not accepted. I guess my instinct on the answer to that is that there is a mechanism to address rejection that if it's been delivered and there's no dispute about its delivery and there is no evidence of rejection that the presumption is that it has, therefore, been accepted in the absence of some other reason to show that it was rejected. Tell me why that isn't a sensible way to read this.

MR. LAMB: So, there's two points on that.

THE COURT: Okay.

MR. LAMB: The Government's exception is an affirmative act. That is the posting of the goods received.

THE COURT: What is the authority that tells me that?

MR. LAMB: I don't have that in front of me. I'm happy to provide a supplemental brief on that point but that is --

THE COURT: Okay. I'm going to -- I'm sorry to delay this and I'm going to ask you to -- look, you

appreciate that this is a tight case where cash flows have to move. I am not going to tilt my decision one way or the other for that reason but I am going to try to speed it up for that reason. So, we're going to have to walk and chew gum and the stuff that is indisputably owed we're going to have to get to the bottom of that at the same time we're briefing the issues where there are disputes. And we're going to brief quickly too.

Look, I think that your point that -- and I will hear from Mr. Dean on this issue too, but I hear you that it's a non-insane reading of the language to say acceptance is an affirmative act by the Government and if there is authority that supports that proposition I want to make sure I have given you the chance to tell me what it is.

MR. LAMB: I am happy to find that for you. I can find that in probably 10 minutes, Your Honor.

So, the second point I would like to make is that the case law that the debtors cite for the constructive acceptance all points to instances where the Government used the goods provided.

THE COURT: I hear that.

MR. LAMB: The debtors haven't provided any proof that the goods have been used by the United States.

THE COURT: Okay. So, what we're talking about presumptively are goods that are sitting in a warehouse

somewhere, they've been shipped, they've been left there, no one has touched them since them.

MR. LAMB: And the debtors haven't come pick them up.

THE COURT: Right. You haven't told them to come pick them up. They've just sat there. You haven't said yes, you haven't said no, we're living in a world of like silence with respect to these deliveries, right?

MR. LAMB: There hasn't been a goods receipt -- there hasn't been a proof of delivery or goods receipt. So, the debtors have the ability to go retrieve estate property from wherever its sitting.

THE COURT: Okay. I understand your position.

So, is there anything else that you want to add on what we've talked about?

MR. LAMB: No. Just those -- well, those two points and then the incorporation of the termination notice language in each of these contracts specifically identifies that any non-receipted goods will not be later receipted. So, there -- so, any items that are delivered -- and for any items that DLA does not have a goods receipt for -- a proof of delivery for cannot be goods receipted.

THE COURT: So, let's go through that again because, again, that is not how I remember the language. So, this is in the termination notice itself?

MR. LAMB: Yes, Your Honor.

THE COURT: So, that is in Exhibit 5. Bring me to the language, I'm sorry.

MR. LAMB: I am right there with you, Your Honor. It's 5-1.

THE COURT: I see. Notice of termination for cause, is this -- I am, again, taking credit for the good work of others. Page 186 of 205.

MR. LAMB: Yes. Thank you very much, Your Honor.

THE COURT: I'm happy to take the credit for other people's good work.

MR. LAMB: You said page 187, Your Hoor, you're looking at?

THE COURT: Okay, yes. Delivery of material, is that where you are? We went through this. Delivery of material after this notice will not be considered for goods receipt and proof of delivery indicating delivery of material after the date of this notice will not be accepted or reviewed. So, to me reading that, if anything there is a negative inference that things that are delivered before that date will be.

So, the question is then does the next paragraph help you any. And the next paragraph is about partial deliveries which is speaking to a different question. So, it seems to -- so, any receipted balance will remain receipted

and if an invoice has not been submitted to date Noble must invoice for the outstanding amount that has been receipted.

So, to me this section doesn't -- this doesn't speak to the question of -- the prior paragraph clearly implies that material received before the date of the notice will be accepted or reviewed by DLA. To the extent there is a thing called being receipted, which is as grotesque as the English language gets, I think that has to happen. At least that is the way -- again, I'm not saying that this document is itself the legal obligation but I certainly don't read anything in this document to take the view that to the extent you've sent it to me and I've received it by the date of termination I am now off the hook.

MR. LAMB: If Your Honor doesn't read that in this language then Your Honor can read it in Paragraph (m) of the FAR where the Government's obligations full stop on August 27th.

THE COURT: I hear you. And that turns on my accepting your position that acceptance requires an affirmative act.

MR. LAMB: Correct.

THE COURT: So, it boils down to that. I don't think that that is obviously correct but nor do I think it's obviously incorrect. And you said you're going to give me more and I'm happy to hear you on that.

what it is in the record or those that turn on this legal question of what happens to goods that were delivered before the 27th but proof of delivery came afterwards and the Government is refusing to act. I will have to answer that question.

MR. DEAN: That is the vast majority of what we're dealing with here.

THE COURT: Okay. I will give you both a couple of days to set out your positions and they could be informal, it can be a letter, you can do it in whatever form you want and I will give you answer to that question as quickly as I can.

MR. DEAN: Okay. I mean, we will certainly do that.

If I could just make a couple of other points as we wrap up and we will do that.

THE COURT: Yeah, go ahead.

MR. DEAN: I don't know if you want us to do simultaneous or --

THE COURT: Yeah, I think under the circumstances we ought to do it simultaneously and I ought to get all of it by the end of the week and I will try to get you something over the weekend or on Monday.

MR. DEAN: Okay. Just to answer your question about from earlier whether Mr. Albergotti's declaration

MR. DEAN: Well, that is why I was suggesting I don't know what they're going to say and so to do a simultaneous submission --

THE COURT: So, look, we could do it in the other order. That delays the process and you're in a hurry. So, you tell me.

MR. DEAN: Give me -- let me confer.

THE COURT: Fair enough.

MR. LAMB: Your Honor, just to speak. If debtors prefer to sequentially informed the Court of our views we would respectfully request an opportunity to reply to whatever position --

MR. DEAN: I think we're okay with a Friday submission simultaneous letters to address the issues.

THE COURT: All right.

MR. LAMB: Friday is perfectly --

THE COURT: All right. Let's do it that way. If I could, not to be inhumane, could I get it by like, say, 2:00 p.m. on Friday so that I take it with me and spend --

MR. DEAN: Sure.

THE COURT: -- we ruin my weekend not yours.

MR. LAMB: Of course, Your Honor. Would you request a page limit?

THE COURT: No, there's no -- I will read as much as you -- I want to give you a chance. I'm not encouraging

you to go on and on but I'm not going to artificially tell you, you know, you have to do it in X pages.

MR. LAMB: Thank you, Your Honor.

THE COURT: It would surprise me if this is a very long piece of paper but sometimes I'm surprised.

MR. DEAN: And letter is fine?

THE COURT: Letter is fine.

MR. DEAN: Just one last point I want to raise on the delivery addresses in Paragraph 12 because you said you wanted us to point to the record. There are a bunch of emails that are quite confusing about this back and forth about the delivery addresses. So, we didn't bring them in.

Our position is that because there has been no rejection of the delivery addresses then they have accepted those too because we gave them the proof to engage with us.

THE COURT: So, look, in the letter point me to the emails. If they're already in the record you don't need to reproduce them. If they're in the summary judgment record, and I have it, but here I do think that -- just my instinct is if you say I delivered it to place X and they point to the contract that says delivery had to be in point Y, and you're saying that they have agreed to take it at point Y that is something where if they have shown me that it says X that that is enough to basically show the absence of a dispute you need to show me that they have agreed to Y. And if it's

confusing that's a problem for you but that sort of is what it is.

MR. LAMB: Your Honor, just to be clear, you're limiting the record we're relying on for this Friday submission to the record before the --

THE COURT: To what is already in the summary judgment record, exactly.

MR. LAMB: Okay. Because the debtors did provide numerous documents for review that are included in the record.

THE COURT: I'm going to rule based on the existing record. I feel like -- I'm asking for additional help in understanding the existing record, not in redoing summary judgment.

MR. LAMB: Understood, Your Honor. Thank you.

THE COURT: Okay.

MR. DEAN: Okay. Fair enough, Your Honor. I have nothing further unless you have any other questions for me. We will get you our letter by Friday and we thank you very much for your time today. I know this is a difficult motion and a difficult record to get through.

THE COURT: No, look, this is the job for which I signed up. So, I am not -- you are not going to hear me complaining about this.

MR. LAMB: Your Honor, if I may?

case.

MR. LAMB: Understood, Your Honor. That is exactly what I going to ask.

THE COURT: Okay, very well.

MR. DEAN: Can I just ask one clarifying question on the potential certification where you've kind of already told us where you are and what is not disputed. Are we really talking about the lines that your clerk identified?

THE COURT: I think so.

MR. DEAN: 1 through 6, 23, 25, 27 to 31, 51 and 56, is that -- I just want to make sure.

THE COURT: Why don't we ask Sandy that question.

(Pause)

THE COURT: I know my own limits.

MR. DEAN: I just want to make sure I wrote them down accurately so I don't mess it up.

(Off record discussion)

THE COURT: And, again, the principle is the one that we were talking about which is we're talking about deliveries before the 27th, proof received before the 27th, and where the column that says proof acceptable the answer is yes.

MR. DEAN: Understood.

THE COURT: And so that is what we're talking about.

CERTIFICATION

We certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of our knowledge and ability.

/s/ William J. Garling October 29, 2026

William J. Garling, CET-543

Certified Court Transcriptionist

For Reliable

/s/ Mary Zajaczkowski October 29, 2026

Mary Zajaczkowski, CET-531

Certified Court Transcriptionist

For Reliable